

PARENTAL ATTITUDES TO THE CHILDREN'S HEARINGS :
THE EXPERIENCE OF JUVENILE JUSTICE

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ABSTRACT

An interest in parental attitudes to the children's hearings system and to the wider context of juvenile justice is developed from two main sources. Most immediately there is the particular emphasis upon the role of the parent and the stress on her involvement in the proceedings of the hearing which is pursued in the deliberations of the Kilbrandon Committee and in the subsequent Act. Chapter One attempts to place these developments within their historical context and draws attention to the traditionally dichotomous model employed in discussion of the measures to be afforded to juvenile offenders. More generally, the focus of past research interest on key hearing participants other than the parent is explored in Chapter Two as an example of the often neglected status accorded to the responses of the consumer within social welfare as a whole. An attempt to remedy the general lack of a theoretical perspective which is identified amongst such studies is provided at Chapter Three, with a discussion of the contribution which may be made by a phenomenological perspective. The implications of this approach for the conduct of the research, observation and interviews with the parents of 100 children referred to a hearing on offence grounds, are also elaborated.

A major concern of the research is to explore the ideologies sustained by parents in this sphere. To this end various ideological elements are identified at Chapter Four and are traced throughout the subsequent chapters which analyse in more detail expectation and experience (Chapters Five and Six), the extent and style of participation (Chapter Seven), the response to decision-making and disposal (Chapter Eight) and parental preference in a number of key areas (Chapter Nine). At Chapter Ten, finally, the ideological elements are assembled together, with the intention of identifying the specific ideologies to which parents adhere. It is ascertained however that, far from the unitary approach suggested by earlier research, parents display a rich multiplicity of beliefs, with little regard for internal coherence. It is concluded therefore that, rather than specific or even multiple ideologies, the majority of parents operate without ideology. The significance of the continuation of hearings, despite parental discord, is explored in the concluding section.

DECLARATION

I declare that this thesis has been composed by myself and is
all the result of my own work.

Alison J Petch

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CHAPTER ONE : Juvenile Justice and the Parent

Neglect of the consumer perspective has been widespread amongst those studying social policy. An attempt will be made to remedy this in the field of juvenile justice by exploring the reactions and opinions of parents towards the Scottish children's hearings, the unique system of lay tribunals which has operated since April 1971. The concern of the research will be to view the hearing and the wider principles of juvenile justice from the perspective of the parent, identifying the aspects of the experience which are of major concern to her and the elements which contribute towards the establishment of an individual's response. The responses of the parent can then be compared to those which have been identified by others for other key participants in the hearing process.

The context of the study is two-fold and is provided within the first two chapters. On the one hand are issues relating to consumer research in general, the reasons for the traditional neglect and the problems that might be encountered in pursuing this particular perspective. Why indeed there may be anything to be gained by its pursuit. These questions, together with a review of the most important consumer studies are addressed in Chapter Two. More immediately there is the location of the hearings system and its concomitant philosophy within the structure of juvenile justice as a whole, exposing the main threads in the traditional debate and tracing the influences which they have had upon the development and structure of the current system. There is a particular interest at this stage

in the importance granted to the parental perspective within the hearing itself.

An opportunity for participation

The first indication that a parental perspective on juvenile justice should be sought developed from suggestions within the Kilbrandon Report (1964) itself of a new emphasis on parental participation in both discussion and decision making

'The panels' decisions would be arrived at after extensive consideration and discussion with the parents, as a result of which it would be apparent to all concerned that the measures applied were determined on the criterion of the child's actual needs' (para 76)

and again

'The questions arising are in our view likely to emerge most clearly only in the atmosphere of full, free and unhurried discussion, as a result of which the underlying aim and intention is made apparent to all concerned' (para 109)

- to which end the number of people attending the hearing should be kept to a minimum. The Committee identified 'social education' as their solution for the treatment of juvenile delinquency and stressed the importance of the family as the best environment in which the needs of the child should be met. The strategy proposed is essentially that of casework, assisting the family to an understanding of their difficulties and the means for their resolution. Parental co-operation therefore is essential -

'enlisting ... their active commitment as participants in a process which for their part they are increasingly led to see as being in the true interests of their children' (para 35)

and

'affording the fullest scope for enlisting the parents' co-operation and support in the measures to be applied at all stages' (para 39).

The detrimental effects on co-operation of certain measures such as fining and restitution are stressed (para 36) and court procedure for juveniles is criticised for failing to enlist such co-operation.

'From our experience we are satisfied that the present procedures fall far short of what is desirable in obtaining parental co-operation' (para 36).

Parents are reduced to the role of passive spectators (para 38).

In the subsequent White Paper, Social Work and the Community (1966), the principle was reiterated

'An essential feature of the new system is that parents should be encouraged and if necessary obliged, to involve themselves personally in consultation with the panel and in the training of their children following the panel's decision' (para 70).

The panel

'will discuss the whole circumstances with the child and his parents, and in the light of that discussion will reach a decision on the treatment or training which the child should have' (para 66).

Rules for the conduct of the hearings stress that the hearing shall

'endeavour to obtain the views of the said child and his parent ... on what arrangements with respect to the child would be in the best interests of the child' (17(2d)).

An enhanced importance therefore seemed to be attached to the parental role in the system. Parsloe (1978) identifies this involvement of parents in decision making as one of the two principles upon which the Committee proposals were based, Fox (1974b) suggests that discussion with the parents is the major innovative feature of the hearing system, while May (1977) considers the dignity and participation afforded to

clients as the only advance in what otherwise he considers an inoperable model. To give meaning however to these suggestions it is necessary to trace something of the historical and philosophical context of juvenile justice. A detailed analysis will not be attempted for several texts fulfil this purpose - Platt (1969), Pinchbeck + Hewitt (1973), Parsloe (1978). Instead the main conflicts in the debate over the legislation of delinquency will be sought.

A traditional dichotomy

The most frequently adopted, though perhaps oversimplistic approach views the development of juvenile justice systems as a shifting balance between the dichotomies of welfare and of criminal justice, closely paralleled by the shift from classical to positivist criminology, and by association of the 'depraved' with the 'deprived'. A few words of definition should be given, again for the moment merely at a level sufficient to sustain the historical analysis. Both Parsloe (1976; 1978) and Smith (1977a) have identified the different ideologies of welfare and of criminal justice or law enforcement and both have also isolated a third approach, that of community involvement, although they suggest that particularly in the historical context this has been little developed. The different models can be distinguished along various dimensions and as ideal types have value as an analytic framework.

'Each approach differs in the explanation offered for criminal and delinquent behaviour and in the meaning said to be attributed by the offender to his entry into and progress through the system. These differences in beliefs about causation and meaning lead to, and are supported by, differences in what are regarded as the primary aims of the system. These in turn support different approaches to treatment or disposition, to the protection of rights or the meeting of need' (Parsloe, 1976:71).

A criminal justice framework stresses notions of individual responsibility and punishment, with crime as an act of free will against the rule of the law. The major concern must be the maintenance of a stable society, the protection of the public in the preservation of individual rights and liberties, and therefore the individual who threatens this stability must be controlled by sanction. At the same time however proof of the commission of an offence is the sole justification for intervention and therefore guilt must be established through the recognised legal rules and procedures, rules which operate simultaneously to protect the rights of the individual. In sentencing, the prime concerns are deterrence for the future and the need to express the vengeance and retribution of society. A tariff system of disposals ensures some proportion between the nature of the offence and the disposition and equality before the law ensures that similar cases receive similar sentence. In contrast, a welfare approach considers criminal behaviour to be a symptom of emotional and/or social disturbance, behaviour for which the individual cannot be held responsible, and emphasises the needs of the individual for treatment and rehabilitation to develop full potential. The approach is one of consensus rather than conflict with rights and procedural rules secondary to the professional identification of needs and treatment,

indeed the offence or delinquent behaviour is significant only in that it points the need for intervention. Under the welfare model justice is individualised, with a preference for indeterminate sentences which can be reviewed as necessary to assess the progress of rehabilitation. Ideas of vengeance or deterrence have no place.

The historical pattern

Although the segregation into principles of justice and of welfare imposes a somewhat artificial polarisation it is nonetheless appropriate, granted its widespread popularity, to retain it during some general observations on the development of juvenile justice systems. All historical interpretations have of course to be treated with caution, based as they are on attribution and speculation, and indeed the orthodox account of historical evolution is now being challenged by those (e.g. Platt, 1969; Bloomfield in ed Brown + Bloomfield, 1979) who consider delinquency not to be a new phenomenon of the nineteenth century but the creation of a specific group, Platt's 'child savers', concerned at the challenge to social order presented by the activities of certain groups of children. Throughout the discussion which follows the role afforded to parents, or more specifically its general absence, should be kept uppermost in mind.

A presentation of the historical development of strategies for juvenile justice needs only to go back as far as the last century. Not really until the nineteenth century did children begin to be regarded as a separate group from adults, with the provision in 1838

of a separate prison for boys, Pankhurst (although whether conditions differed from adult establishments is debated), in 1847 of limited summary jurisdiction, extended more widely under an Act of 1879, and in 1854 and 1857, partly as the result of campaigns by Mary Carpenter, the establishment of the reformatory and industrial schools, the former for the 'criminally dangerous', the latter for the destitute and abandoned, the 'perishing classes', also those who had committed minor offences. From the beginning however links tended to be drawn between the criminal and the pauper, delinquency primarily perceived as a direct manifestation of poverty, with the Poor Law ethic as dominant, and yet distinctions were nevertheless drawn in the disposition of children dependent on the presenting symptoms.

'While the juvenile justice system in both Britain and in the United States increasingly adopted a welfare orientation, this was made possible through the retention of a punitive system which became the shadow of each salvation' (Covington, 1979:3).

Parsloe (1978) suggests that the requirement of the 1854 Act that a child should spend fourteen days in prison before going to the reformatory illustrates well the tension between criminal justice and welfare approaches. The demand of punishment for wrongdoing was balanced against the child's need for training and reform, with the need for punishment outweighing the danger of contamination, putting the child at risk through exposure to those with a greater criminal history. Nonetheless a concern with contamination shadows much of the nineteenth century reform, whether a concern on humanitarian grounds to relieve the child from debilitating influence or whether motivated by self interest and fear of the consequences of uncontrolled

destitution and pauperism.

It is the orthodox interpretation which stresses the humanitarian and philanthropic concern of reformers to promote the welfare of children by removing them from the full criminal jurisdiction of the courts and the barbarities of prison by providing them with institutions to promote rehabilitation rather than punishment. Legislation in 1866 allowed for intervention specific to children on grounds of care and protection and beyond parental control and could be interpreted as a wider desire for the best interests of the child. Writing from an American perspective Faust + Brantingham (1979) characterise the orthodox view of a

'humane impulse merging with social science through a legal catalyst to replace the barbarous and vengeful cruelties of the criminal law' (p.2).

In this instance the legal catalyst was the doctrine of *parens patriae*; with its extension from guardianship of wealthy orphans to its role as ultimate parent of all children the right of the state to intervene was determined and the route was open to the creation of the individualised justice of the juvenile court. What Faust + Brantingham term the alternative 'revisionist' interpretation is promoted for example by Platt (1969) and in this country by Bloomfield (1979) who suggests indeed the creation of delinquency by the 'child savers'. The stress here is upon a concern by the 'reformers' to impose elements of social control upon children whose behaviour threatened middle class values, to ensure the development of the young into compliant adults. Humanitarian motives are replaced by the concern of a socioeconomic elite to manipulate juvenile laws to maintain

control over lower class behaviour and to train through the industrial schools labour suitable for capitalist production. Moreover the professional child savers are seen as seeking protection and expansion of their own careers and what he terms the middle class feminists as seeking political power and acceptable careers outside the home. Under this interpretation the creation of the American juvenile court is seen not as a major departure of legal process but rather the natural conclusion to half a century's developments in legal practice concerned with the disposal of troublesome urban children. The Illinois juvenile court of 1898 merely codified existing practice.

Remaining with American development for a moment Faust + Brantingham present in fact a synthesis of these alternative interpretations as their model of invention of the American juvenile court. Four principal elements are isolated: precipitating conditions in the form of pressure for social change, philosophical and theoretical positions on crime and correction, the implications of these positions and conditions for the handling of troubled and troublesome children, and finally a legal catalyst, as explained above the adoption of *parens patriae*. The precipitating conditions are identified as three: a desire to shift control of juvenile offenders away from the criminal justice system, the urban disenchantment with prevailing conditions of rapid growth and industrialisation, and the feminist movement in Chicago, while the philosophical concerns reflected the increasing adoption of the treatment orientation of other-determined behaviour by the positivist. It need hardly be said that there was little concern at this date with the role of the parent. In

the majority of states the result of this model of intervention was what Faust + Brantingham characterise as the socialised juvenile court, a model which they clearly differentiate from that of the constitutional juvenile court which they consider emerged from 1967 onwards in the aftermath of the Gault case. In view of what is to come on the emergence of the system in England and Scotland it is interesting to speculate on why the United States should have pursued what can be seen as the welfare alternative at a much earlier date. Faust + Brantingham suggest that this has not adequately been explored and their theorising is only tentative: that the advocates of the socialised court were more highly developed in political strategy and public relations, that there was powerful collateral support from the emerging social work profession and from psychiatry and psychology, and that the criminal court lost out in the appellate courts.

In Britain meanwhile, by the end of the nineteenth century there had already been several moves to establish a separate court structure for children. Interestingly for the Scottish context, in 1876 the Rev Waugh had proposed the creation of

'a new and distinct tribunal of citizens whose functions should be magisterial, whose legal qualifications should be their ability to read the living literature of English children, whose Act of Parliament should be their own moral instincts and, above all, who have committed and not forgotten the appetitive and pugnacious follies of youth' (Bruce, 1978:244).

He was before his time however and pressure groups concentrated on court proposals, citing for example successes in American states with corresponding financial savings. Some separation of children was

already occurring, often magistrates particularly interested in children and supported and influenced by religious groups such as the Quakers, and by 1904 children's cases were heard separately in several cities including Glasgow, Leeds, London and Liverpool. These courts increasingly regarded children as the victims of circumstance, to be helped rather than punished, a view given official recognition by the Gladstone Committee Report of 1896 on the reformatories and industrial schools. The child and his welfare should now be the pre-eminent concern rather than, as in a previous report of 1884, the protection of society. Twelve years later in the Children's Act of 1908 the intent which had slowly emerged over the preceding century of separate jurisdiction for children was finally attained, the special juvenile courts to have both civil and criminal jurisdiction and to be conducted in private. The courts would deal with all children between seven (the age of criminal responsibility) and sixteen who were alleged to have committed offences and would have civil jurisdiction over children under 14 considered to be in need of care because of the conditions in which they were living, because they were beyond parental control or because they failed to attend school. Segregation before trial was required, imprisonment was no longer to be available as sentence and probation was now a possibility in appropriate cases. The more punitive disposals were reserved for offenders: whipping, fining and committal to reformatory school. There is again no specific concern to involve the parent in the process.

Concerns both of the Home Office, a former Home Secretary, Harcourt, and of the NSPCC (of which the Rev Waugh cited above was a prominent

member) appear to have contributed to the promotion of the Act. It should be stressed however that unlike the Illinois Act and unlike also the child welfare boards of Scandinavia these courts remained ones of criminal procedure, concerned under their criminal jurisdiction with punishment of offences. There was however to be some protection, a period from seven to sixteen of what Priestly et al (1977) deem 'moral quarantine'. Observers suggest that some of the conflicts which were increasingly to bedevil the juvenile process were already present. Morris + McIsaac (1978) conclude that ambivalence towards the child offender led to ambivalence both in the structure and the operation of these first courts.

'On the one hand, the child offender was viewed as a victim of undesirable circumstances who had been denied the benefits of civilized life and it was the courts' task to provide such care and treatment as he required. But he was also viewed as a miniature adult who acted with free will and who required control and discipline. As such, both he and society required to be protected by the due process of law and its accompanying procedures and safeguards' (p.10).

Nevertheless the court had been established which had to weather this compromise for the next sixty years, a compromise which was perhaps merely to be intensified by subsequent legislation.

Thus, following the 1927 Moloney Report of the Home Office Departmental Committee on Young Offenders, the 1933 Children and Young Persons Act specified that in dealing with a child or young person brought before it each court was to have regard to the welfare of that child or young person (S44). In Scotland a similar principle is found in the Children and Young Persons (Scotland) Act 1932, consolidated 1937, the result of the Report of the Morton Committee on

Protection and Training in 1928. The articulation of this principle was new although the emphasis of the legislation was modest compared to the Committee's recommendation that consideration of the child's welfare should be the main function of the court. The Committees discussed but rejected proposals that children should be excluded from criminal jurisdiction altogether but nevertheless recommended the merger of the industrial and reformatory schools into the single category of approved school.

'The fact is that the distinction between the two is largely accidental. The neglected child may only just have been lucky enough not to have been caught in an offence' (Under Secretary of State, quoted Parsloe, 1978:153).

In effect therefore both the criminal and the civil case could share the same treatment despite procedural distinctions. The consequences of adopting a policy of individualised justice were stressed by the English Committee.

'The idea of the tariff for the offence or of making the punishment fit the crime dies hard; but it must be uprooted if reformation rather than punishment is to be ... the guiding principle' (p.48).

The increasing emphasis on welfare should not however be seen as usurping concern for criminal justice. Rather a dual role is demanded of the court, one which will encompass both treatment and punishment, an ambition subsequently questioned by the Ingleby Report of 1960 (Report of the Committee on Children and Young Persons).

'The court remains a criminal court in the sense that it is a magistrates court, that it is principally concerned with trying offences, that its procedure is a modified form of ordinary criminal procedure and that, with a few special provisions, it is governed by the law of evidence in criminal cases. Yet the requirement to

have regard to the welfare of the child, and the various ways in which the court may deal with an offender, suggest a jurisdiction that is not criminal. It is not easy to see how the two principles can be reconciled: criminal responsibility is focused on an allegation about some particular act isolated from the character and needs of the defendant, whereas welfare depends on a complex of personal, family and social considerations' (para 60).

Morris + McIsaac (1978) point out that the 'dual images' of the offender are placed not side by side but in sequence

'In the first instance (the adjudicative stage) the delinquent act was viewed as an act of conscious defiance. Once the act was proved or admitted to, it became possible to view it as a product of personal or external forces and dispositions were to be reached with these forces in mind' (p.13).

In the next major period of legislation the conflicts were to be more openly acknowledged, a period which was to see divergence in policy between England and Scotland. Given our primary interest in the evolution of the hearings and their specific allocation of a role for the parent we will concentrate here on the development of the Scottish legislation. The alternative strategy pursued in England has been well documented elsewhere (e.g. Parsloe, 1978).

Developments in Scotland

When the Morton Committee had reported in 1928 it had found that despite the recommendations of the 1908 Act juvenile cases tended to be heard in either the sheriff or burgh courts, not it was considered the best environment for children, and that save in Lanarkshire separate juvenile courts were virtually unknown. The Committee and subsequent Act therefore re-emphasised the principle of separation and recommended that

specially constituted JP juvenile courts should be established, conducted by those with a

'concern for the problems of childhood and of adolescence, and an insight into young life and that knowledge of local conditions which will enable them to establish the influence of parents, the effect of the environment and the moral atmosphere of the district in which the offender lives' (p.43).

Only in four areas of Scotland however were these provisions of S.1 of the 1932 Act carried through, separate juvenile courts emerging only in the counties of Fife, Renfrew and Ayr and the city of Aberdeen, and all those under orders laid prior to 1940. Explanation for this reluctance compared to England to establish separate facilities can only be surmised. Morris (1974) suggests however that reorganisation was in part halted by the preoccupation of war and subsequently by a wariness of local authorities to pressurise for specialised courts when those already operating could not be shown to be effective. The system continued therefore much as before, the obligation to have regard to the welfare of the child no doubt being variously interpreted, and by the time of the Kilbrandon Report (1964) the distribution between courts was found to be sheriff courts 32%, burgh (police) courts 45% with the Glasgow police courts accounting for 33% of the total, the specially constituted juvenile courts 16% and other JP courts 7%. Practices therefore varied widely and it appeared a situation with considerable potential for reform.

The Kilbrandon Committee, unexceptional in its composition, was appointed in 1961 to

'consider the provisions of the law of Scotland relating to the treatment of juvenile delinquents and juveniles in need of care or protection or beyond parental control and, in particular, the constitution, powers and procedure of the courts dealing with such juveniles' (para 1).

In their Report, Children and Young Persons, Scotland (1964), the Committee re-emphasised the importance of having regard to the needs of the child, the welfare directive of the court, but exposed more bluntly than in previous reports the conflict which therefore arises between the traditional concepts of the criminal court and the concern for individual preventative treatment.

'Since ... judicial action in relation to juvenile offenders in all cases takes place within a framework governed by criminal procedure, the proceedings as a whole and in particular, the consideration of measures to be applied once the offence is established, cannot avoid being coloured by the underlying general concepts of responsibility and punishment, which ... may be positively detrimental in their practical application, in that they may inhibit the application of the preventative measures which the circumstances clearly demand, or the variation of measures already applied in circumstances in which it is clear that their continuance is serving no useful purpose' (para 67).

In essence

'the shortcomings which cause dissatisfaction within the present juvenile court system ... seem to us to arise essentially from the fact that they seek to combine the characteristics of a court of criminal law with those of a specialised agency for the treatment of juvenile offenders, proceeding on a preventative and educational principle' (para 71).

The solution, subsequently incorporated in the Social Work (Scotland) Act 1968, is to separate the two processes, adjudication of the alleged offence (or other referral) and consideration of the most suitable treatment measures, although it should be appreciated that the Committee did not see this solution as absolute, suggesting perhaps, as will be discussed subsequently, that much of the ensuing polarity has been something of a false debate.

'We do not believe that this apparent conflict of aim can ever be wholly eradicated, though the arrangements which we discuss later in our Report are capable, we believe, of reducing such conflicts in the eyes of the parent, if less frequently in the eyes of the child. It would however be unrealistic to imagine that cases will not continue in which public measures for a child's protection and future welfare will still be seen as amounting to compulsion and punishment. Such attitudes, even if diminished, will remain as an inherent feature in the situation which has to be faced by those to whom the child's supervision and further training may be entrusted by public action' (para 57).

Similarly qualification is given to the use of punishment and treatment as opposing principles

'Punishment need not be alien to such a concept (i.e. treatment), since punishment might be good treatment for the particular person concerned in his particular circumstances: but punishment would be imposed for its value to the purpose of treatment, not for its own sake as some sort of reward for ill-doing' (para 53).

Nonetheless the key was to be the needs of the individual child and the identification and prescription by a lay tribunal of the treatment measures appropriate to these needs. The rhetoric was one derived from medical terminology,

'a meticulously consistent application to the juvenile justice issue of a medical treatment approach to delinquency' (Bottoms, 1974:341),

although one may speculate whether the use of the term 'treatment' in the original remit was not perhaps under the more mundane guise of to 'deal with'.

For the Kilbrandon Committee the causal factors in both the delinquent child and the child in need of care and protection were primarily familial - a failure in the normal upbringing processes which indicated a need for special measures of education and training, a

problem of 'arrested or deformed development. There has been a growth failure' (Kilbrandon, 1968:236). This belief in family pathology is explicitly stated

'It is, we think, accepted that more often than not the problem of the child who is in need and the delinquent child can be traced to shortcomings in the normal 'bringing-up' process - in the home, in the family environment and in the schools' (para 87)

while wider environmental explanations are specifically rejected.

'The environmental argument, it is now recognized, could, however, never offer a universal answer; in a great many delinquents a degree of maladjustment, of malfunction personal to the individual, has always been observable' (para 77).

The challenge is to provide at the individual level educational measures which will compensate for the developmental failure

'Such a process of education in a social context - or 'social education' as we now describe it - essentially involves the application of social and family case-work. In practice, this can work only on a persuasive and co-operative basis, through which the individual parent and child can be assisted towards a fuller insight and understanding of their situation and problems, and the means of solution which lie to their hands' (para 35).

'The aim must be to strengthen and develop the natural influences for good within the home and family, and likewise to assist the parents in overcoming factors adverse to the child's sound and normal up-bringing' (para 140).

That a child be in need of such special measures of education and training should be the only grounds for referring a child to the panel. It follows as a consequence that the distinction between offenders and others is unnecessary, a recognition that the Committee had already accepted.

'The great majority of the witnesses with whom we discussed this matter agreed, however, that in terms of the child's actual needs, the legal distinction between juvenile offenders and children in need of care or

protection was - looking to the underlying realities - very often of little practical significance' (para 13).

With only minor modifications - most importantly the responsibility for the special measures of education to lie with newly created social work departments rather than with the education authorities - the proposal for the lay panel system was pursued in the 1966 White Paper Social Work and the Community and implemented through the subsequent Social Work (Scotland) Act 1968. The dominance of criminal justice concerns had finally been defeated. It should perhaps be stressed however that though this was achieved through a lay panel rather than a court this in itself is unimportant. Indeed the courts themselves were primarily served by lay members. It is the philosophy rather than the structure through which it is delivered that is decisive. For the parent however there may well be significance in the choice of a lay tribunal. It may affect both her inclination and her ability to communicate and may influence her response to those who are in this position of authority.

The response to Kilbrandon

In looking at the criticisms that have been directed at the hearing system, in particular at the philosophies which underlie it, the intention is to provide a background against which the analyses presented by parents can be pursued. By highlighting the responses of others it provides a framework against which the experiences reported by parents can be assessed. The system has been questioned from two main perspectives. Firstly that it is based on false assumptions as to the problem and therefore proposes an inappropriate solution. And secondly that practice within the system may reflect ideologies which differ

markedly from the declared philosophy.

The Kilbrandon Committee institutionalised a social welfare approach to juvenile delinquency on the unquestioned assumption that the explanation for delinquent behaviour lay in individual and family pathology, and that through diagnosis and treatment the behavioural problem could be solved. They did this despite contemporary criticism that was already emerging of the operation of such a philosophy in the American juvenile court. But if the causal assumptions are invalid then the adoption of the treatment or welfare model also breaks down. Effective treatment demands a knowledge of cause, knowledge which in the study of delinquency has been extensively demonstrated as inadequate. Positivist analysis has sought explanation through a range of differentiating factors - biological, psychological and social but has failed to identify adequate determinants. Others have sought explanation beyond the constraints of positivism. Matza (1964) for example reverts to a 'soft determinism' in his theory of delinquency and drift and invokes

'an actor neither compelled nor committed to deeds nor freely choosing them; neither different in any simple or fundamental sense from the law abiding, nor the same' (p.28).

Schur (1973) promotes his doctrine of radical non-intervention, while the labelling theorists stress the importance of an interactionist model. Most importantly the role of the attribution of meaning is signified.

The treatment model has been attacked not only on the basis of false causality but also for being part of a false dichotomy. Priestley et al (1977) cite

'a broad base of opinion where the distinction between punishment and treatment is blurred to a point where the two ideas cease to be opposites, or even separate concepts and become instead subsidiary facets of the process of 'doing what is best for the child'' (p.29).

The juxtaposition against the punishment alternative is rejected for at disposal treatment may well embrace the very measures previously defined as punishment.

'Measures which subject individuals to the substantial and involuntary deprivation of liberty are essentially punitive in character, and this reality is not altered by the fact that the motivations that prompt incarceration are to provide therapy or otherwise contribute to the person's well being or reform' (Allen in Matza, 1964:131).

Campbell (1975) pursues the argument further, questioning the assumption that punishment and treatment are exclusive.

'To assume that treatment and punishment are not overlapping processes ignores that fact that if we define a treatment as a process designed to bring about a cure, including the cure of deviant behaviour, then this will cover punishment where, as is often the case, it is inflicted for the purpose of altering behaviour' (p.18).

May (1977) suggests that the rhetoric of treatment while certainly promoting flexibility and comprehensiveness merely conceals the reality of an offence based system. As Matza (1964) has argued

'The principle of individualised treatment is a mystification. Indeed, it is one of the very best examples of mystification in current society. To the extent that it prevails its function is to obscure the process of decision and disposition rather than to enlighten it' (p.115).

To an extent of course it all depends on what is meant by the concepts of punishment and treatment with Bruce (1978) suggesting that much of the debate has been confused by insufficient definition of the terms employed.

'Some use treatment in a sense which includes the possibility of punishment, others as an alternative to punishment. Some use punishment to describe measures which are intended to be unpleasant, others to describe any measures which may seem unpleasant to the recipient' (p.253).

Watson has argued (in ed Brown + Bloomfield, 1979) that the treatment orientation of the hearings is not as narrow as that of the traditional understanding of the treatment model as for example criticised by May (1971). His discussion elsewhere (Watson, 1976) is a philosophical attempt to clarify the debate. He distinguishes two approaches to punishment, the retributivist and the consequentialist, with the first classically regarding punishment as justified by breach of the law and stressing responsibility, the second justifying punishment if it produces the best consequences and invoking measures of deterrence and reform. He maintains that it is with this latter category that confusion has arisen. In his use of punishment in para 54 (at which he discusses the contrasting principles) Kilbrandon has confused definition and justification, recognising only retributive punishment and therefore falsely implying that treatment necessarily excludes punishment rather than appreciating the true consequentialist nature of the reform. Martin (1978) would also argue that there has been an undue emphasis on the measures of treatment, elements of 'protection, guidance and control' being also identified in the Statute (S32(3)).

In this context of an inappropriate model based on unfounded assumptions and possibly also false categorisation critics have attempted to explore the reality operating behind the guise of welfare and treatment and have exposed the operation of the hearing system as

primarily an agent of social control. Though this has been a term 'rarely defined, frequently misused and considerably abused' (p.1) a recent paper by Higgins (1980) has attempted to clarify the concept. For Morris + McIsaac (1978)

'Social welfare is a particular type of control strategy ... treatment (a technique of social welfare) is directed towards producing change in the behaviour of an individual and when it occurs against the wish of the delinquent becomes a type of social control' (p.xi)

a control which is demanded by societal pressure.

'Society's attitude to children who offend cannot be isolated from society's attitude to offenders in general - they expect something to be done about delinquent behaviour. Political and community pressures have, accordingly, shaped the hearings behaviour and they are concerned as much with control and with the protection of the public as with the care and welfare of the child' (Morris, 1976:32).

This alternative understanding is echoed by Campbell (1975)

'Is it not the protection of society that is at least sometimes the actual implicit aim of the decisions which are reached? The Act talks about children in trouble but does it not often mean, not children who have troubles, but who cause trouble to others. They are 'in trouble' only in the sense that they are troublesome' (p.20).

For Bloomfield (1979) recognition of the control function corrects the irrelevance of the punishment versus treatment dichotomy.

'It is a gloss on a quite different sort of change that has taken place since the early years of the nineteenth century. The basic intention of measures of intervention in delinquency is and has been since its invention, that of control; to prevent or reduce the occurrence of delinquent acts ... To speak of punishment versus treatment is basically misleading because the change that has taken place involves simply a gradual movement from one kind of control in the direction of another' (p.56).

The technique for control has merely become less visible concealing more subtly, Bloomfield would argue, the inherent operation of power.

The legislation should not however be entirely discredited in this context for as noted above at S32(3) of the Act it does allow that 'care' should include 'protection, control, guidance and treatment'. Rather it fails completely to recognise the conceptual importance of the device.

Several of the strands in the continuing debate surrounding the philosophical base of the hearings are linked in that they can be seen as essentially part of a debate over language. Are there in reality alternatives or are they merely a deception promoted by the use of language. Morris + McIsaac (1978) ask

'Is it merely because we feel more comfortable with the language of social welfare ... The language of social welfare sounds humane and its emotional appeal is considerable. But in practice welfare ideologies are subsumed by the goal of social control. Social welfare is a euphemism for social control and techniques of social welfare are potentially superior forms of social control' (p.xii).

Similarly Allen (1964) has called for a more explicit recognition of the compulsion that may lie behind the language of therapy

'It is important to recognize that when, in an authoritative setting, we attempt to do something for a child 'because of what he is and needs', we are also doing something to him. The semantics of 'socialized justice' are a trap for the unwary' (p.18).

Kilbrandon can be criticised, Morris (1974) suggests, as an example of 'legislation by euphemism'.

'Euphemisms are frequently used to disguise the true state of affairs, to pretend that things are other than they are. Courts become tribunals, probation becomes supervision and approved schools are renamed residential institutions' (p.364).

This concept of language has been applied more rigorously by Asquith (1978) who suggests that much of the conflict and ambiguity arises through a

failure to appreciate the divergence between the language of the professional with its therapeutic terminology and the ordinary 'commonsense' language of the layman who of course has a key role in the system. A recognition of such a departure at least he suggests

'has the merit of exposing the sterility of debates about whether treatment is really punishment after all, or about the effectiveness of treatment as opposed to punishment by attempting to consider the context of language. An analysis of punishment or treatment in which meaning is decontextualised can make little sociological headway and is guilty of crass empiricism' (p.13).

An alternative challenge to the operation of the treatment model through the hearings, to 'welfare totalitarianism' (Martin, 1978:86), has come from those concerned with safeguarding the legal rights of the child (Grant, 1976), or more importantly with what Fox (1974c) has termed the child's right to punishment. Those anxious as to legality speak of weaknesses in the operation of hearings which lead to a less than adequate recognition of procedural rights and call for limits to the exercise of discretion -

'Because of the danger that what in fact is going on is something which is in society's interests and only indirectly and artificially in the child's interests, it is not only appropriate but morally imperative to view decisions about the proper method of treatment in the light of the traditional norms of justice' (Campbell, 1975:22)

- while much of the latter argument has been pursued as a result of rejection of the treatment philosophy itself, whether on grounds of its lack of effective results or more decisively on the grounds of the potential for abuse that is perceived within such a philosophy. The review process for example can retain the child within the system by continual reformulation of the problem, proportionality and 'fairness'

having no role when the disposal is not conceived as punishment. With a child's right to punishment the central tenets of treatment, individualisation - 'the proverbial four lane highway leading to a cow pasture' (Fox, 1974c:5), indeterminate sentences and official discretion, each, Fox maintains, the source of rampant abuse, would fall away to be replaced by fixed penalty classes with the uncoerced offer of treatment if the individual should so choose. Fox (1974a) has also more fundamentally launched a refreshing attack on the traditional debate by questioning, especially in the American context, whether in actuality there is a philosophy of juvenile justice, a body of ideas that can adequately serve as general theory

'It can be seriously questioned whether what is found under the heading of 'juvenile justice philosophy' comes anywhere near this understanding of what philosophy and jurisprudence are about. It is probably much more accurate to characterise this 'philosophy' as a statement of the benign motives of judges or corrections administrators, or as a declaration of legislative intent behind the enactment of juvenile legislation' (p.379).

It can also of course be questioned whether given the role still afforded to prosecution by the sheriff or High Court the hearing system is in any case an accurate interpretation of a welfare philosophy.

'It was clear that the small loophole left by the Kilbrandon Committee and the subsequent White Paper had been teased open bit by bit until the logic of the new system was seriously threatened. The tug-of-war had not ended in a clear win for the hearing system; the old system was still in the field' (Bruce + Spencer, 1974:228).

Several critics have questioned why, if a child's needs are to dominate, there is still a duality of system where not insignificant numbers are subject to a court based on judicial principles as required by the Lord

Advocate instructions. As Morris (1974) asks, is it only minor offences that are symptomatic of underlying personality or family disorder.

'Are grave offences to be punished because society's tolerance of 'growth failure' in children has its limits, or because the public demand that serious offences be dealt with by the symbolic ritual denunciation which can be provided only by a court and not in the quiet of a confidential consulting room' (Gordon, 1973:347).

In practice of course sheriff proceedings tend to be for technical reasons other than the gravity of the offence with a revision in 1974 attempting to limit the numbers that would be prosecuted by the court.

An interesting exploration by Rushforth (1978) of the implications of the dual system found that despite the different agencies by which a sample of boys was committed to List D schools, agencies with supposedly very different orientations, there was virtually no distinction in the characteristics of the boys, whether in their background, in the offence pattern or in the response to training. All but a handful of the cases had been processed by the court for legal reasons other than the seriousness of the offence.

'If the lay panel is expected to place greater emphasis on the welfare approach to children in trouble and the courts are seen in some way to represent a criminal justice approach, and yet the types of decision made by the two bodies are similar, this may mean that the two systems are in fact operating in a very similar way in some areas' (p.24).

Nevertheless there were implications for the boys of a labelling process. Staff perceptions although at times inconsistent did appear to contribute to the emergence of differentiation with particular concern for the control of the court boys.

'The very fact of being processed by a court as opposed to a panel seemed to have changed the frame of reference by which these boys were regarded' (p.54).

Lacking explanation of the dual committal staff created their own rationale to account for the 'facts', a construction which impinged as a labelling process on the boys themselves. That a system be illogical is perhaps acceptable; that it has stigmatising consequences of this nature is more disturbing.

Nevertheless it may well be that the expectation of a 'pure' juvenile justice model is unrealistic and that the debate becomes increasingly myopic.

'The conflict of correctional values with welfare values may well be a universal and inevitable feature of any system which deals with children who offend' (Morris + McIsaac, 1978:93).

It may indeed be a feature which is seen as beneficial

'A degree of internal inconsistency in a juvenile justice system, though it may create a powerful challenge for those who make the system work, is basically a sign of strength rather than weakness, since it implies some recognition of the uneasily conflicting demands and expectations inevitably made on any such system in our kind of society and gives it a greater chance of survival than one which was philosophically ruthlessly consistent' (Martin, 1978:80),

or as necessary

'When the balance between the justice and welfare approach is tilted too far in the direction of welfare the aims and methods of welfare themselves become distorted by the human tendency to be corrupted by power. Welfare needs justice in order to hold true to its stated intentions and to test the realities of its rhetoric' (Parsloe, 1976:75-76).

If this is so however it must be openly acknowledged for it certainly appeared that while Kilbrandon was making a vigorous bid to be accepted as a welfare based doctrine other elements remained masquerading within it.

Participant ideologies

A somewhat different approach to the philosophy of the hearing system is to characterise the ideologies which are actually demonstrated by the different participants within the system. Their exercise of discretion determines the realities which operate whatever the tenets of the legislation. Indeed Smith (1977b) suggests that it is only at this level of individual ideology that internal consistency within social policy can be expected, while May (1977) argues that failure to acknowledge the existence of competing interpretations behind the rhetoric of consensus has led to the confusion often exhibited in the conduct of hearings. Morris + McIsaac (1978) for example have illustrated for various groups the conflicting aims pursued by different interests. They show that to expect working roles to change to fit a newly imposed doctrine is unrealistic. The police for example remain the prime source of referral with the discretion of exercising a police warning. That their pattern of referral has changed very little, being primarily determined by the type of offence and whether the child has a record, suggests that they are unable or unwilling to adjust to a directive that referral should be on the basis of the needs of the child rather than on the commission of an offence. To do so would conflict with their traditional values and therefore it is not surprising if police bodies are critical of the subsequent processing of a child within the system. Examination of the practice of Reporters leads Morris + McIsaac to suggest that while not wholly eschewing principles of welfare and certainly operating as a diversionary agent it is modified by pragmatic concerns for law enforcement, community protection and social control. The discretion of the Reporter has been explored

further in the recently completed study by Martin, Fox + Murray (1981).

The special position of lay members within the hearing system has led Asquith (1977) to contrast the differing professional and lay frames of reference to which individuals may have access during the decision-making process. The importance he believes is that the panel member's lay frame of reference is embedded in the beliefs and knowledge of everyday life, and therefore

'in relation to their role as panel members, through their private frames of relevance, individuals bring to the Hearing situation public and lay conceptions of delinquency, its causation and how to deal with it' (p.70).

The corollary of this of course is that it is irrelevant what the professional conceptions of the purpose of the panel may be. If for example offence behaviour is considered significant within the individual's lay framework it will operate as a consideration regardless of legislative directive.

'The fallacy of a treatment philosophy underlying delinquency control is that it ignores the social context of the decision-making process' (p.70).

This can be seen as merely an example of the contradiction and lack of definition which May + Smith (1970) see as characteristic (perhaps at times necessarily) of the Kilbrandon recommendations.

'If one accepts the notion that delinquent behaviour is a manifestation of a social disease whose accurate diagnosis and treatment calls for special skills and training it would seem hardly logical then to go on to recommend that final responsibility for the treatment programme be left with a group of people who by definition possess neither these skills nor training' (p.97).

From their empirical study Morris + McIsaac (1978) draw a similar conclusion on the ideologies of panel members. In the absence of an

objective definition of 'needs' (Smith, 1973) panel members are thrown back on their own subjective values in assessing the individual. The emphasis appears to be on the child exhibiting behaviour acceptable to the community and where this conformity is lacking action is deemed necessary. Asquith (1977) does recognise however that the contrast between lay and professional is a continuum and suggests that through the selection and training process panel members may well move towards an understanding of the typifications of the social work professional. Nevertheless a recent investigation by Ollenburger (1983) designed to ascertain the extent to which individual panel members hold classical notions of justice found that attitudes extend over the entire range from classically deterrent to highly positivist. Significant variables appear to be the occupation status, educational achievement and sex of the panel member.

The professional ideologies which social workers bring to the hearing have been identified by Smith (1977a; 1977b) as embracing beliefs from all three of the traditional approaches - welfare, law enforcement and community involvement. He traces the implications of each stance for social workers' views on for example the recruitment and training of panel members and the conduct of the hearing. Moreover while the individual social worker will profess elements which dominantly reflect one of these groups, Smith confronts the existence of ambiguity and inconsistency and allows the reality of elements from competing ideologies to be embraced.

'A primary ideology was apparent but the allegiance to this chosen ideology had its limits. The range of situations that can be covered by one set of ideas seems to have bounds and on occasions a competing ideology is invoked. The phenomenon of 'multiple ideologies' thus appears to be a regular feature of the system and not simply an occasional occurrence which can be dismissed as an idiosyncrasy of some kind' (1977b:850).

Smith invokes notions from strain theory in an attempt to explore this multiplicity further and demonstrates the use of 'accounts' (Scott + Lyman, 1970) to resolve such incompatibility. Such analysis would suggest that attempts to characterise the hearings as imbued with a 'social work world view' (May, 1979:89) are oversimplified if they expect therefore this to induce a uniform response, though this is not to deny the dominant role of the social worker, particularly through provision of the social enquiry report, in defining the nature of the problem and in controlling the information that the hearing receives.

Mention in passing can be made of two further studies. The work already referred to by Rushforth (1978) discussed with staff of List D schools their perceptions of the philosophies operated by sheriff and panel in reaching a residential disposition and also their own ideological predispositions. Less than half had viewed the panel as operating on principles of treatment and cited in place the control function, but the majority recognised the concerns of the sheriff as punitive. The significance in their own views on the role of the residential establishment is their expression of the treatment/control dilemma although two thirds did define their own role in treatment terms. The dilemma is made only more real by the presence within the school of boys committed from both sides of the argument.

'The inherent ambiguities of practice result in a very fragile and incoherent 'system of meaning'' (p.68).

In a second study concerned with a single List D school, Walter (1978) demonstrates the clash in perspective between the staff and boys. The staff adhere to a treatment philosophy which defines the school as a therapeutic establishment for the resolution of personal problems. For the boy himself however the problem is being confined in the school, a punitive institution, and his aim is to get out through good behaviour. Boys fail to assimilate the treatment philosophy; they do not believe that they are in the school because of family pathology. Walter explains how the absence of routine procedures for formulating 'the problem' undermines the staff ideal, but how a language of rhetoric maintains a gloss which allows continued functioning, a legitimization of the official philosophy.

'The language of 'problem solving' is sufficiently flexible and ambiguous to encompass such diverse meanings without the discrepancy being immediately apparent and this is crucial for its continued use by both staff and boys' (p.156).

The boys talk of their problem but it is a very different concern from that invoked by the staff. Such discrepancies are important. They suggest that in attempting to explore the as yet uncharted parental perspective allowance has to be made not only for the predilection of the parent but for the possibility that (despite the rhetoric) system members may be presenting sentiments which vary markedly from the declared philosophy. The system in operation is tangled, a rich confusion of different ideologies and sentiments which belies the existence of any simplistic dichotomy. To confront the experiences of parents is to add an important dimension to the analysis.

'Including their viewpoints will complicate the debate yet further but will bring it nearer to reality, for the real world within which the juvenile justice system operates is complex, confused, contradictory, changing and rich. Only our perceptions, restricted as they are by our values, can make this real world simple or offer one approach as the answer to its many different human situations' (Parsloe, 1978:282).

The client perspective

The importance of the 'client' perspective will be discussed at greater length in the following chapter. It is however appropriate to outline briefly at this point the few consumer studies which have been attempted at the receiving end of juvenile justice. Speculative empathy has been expressed by several critics, but few have spoken directly to the clients themselves. Matza (1964) for example evokes a vivid picture of the bewilderment of the child attempting to locate his images of fairness and justice.

'Why should persons so important and influential as the judge and his helpers lie to him regarding the true bases of disposition? Why should they insist, as they frequently do, that it is not what he did - which strikes delinquents and others as a sensible reason for legal intervention - but his underlying problems and difficulties that guide court action? Why do they say they are helping him when patently they are limiting his freedom of action and movement by putting him on probation or in prison? What on earth could they possibly be hiding that would lead them to such heights of deception?' (p.133-4).

The scenario is echoed by Johnston (1969).

'In his eyes one apple-stealer or runaway is the same as any other apple-stealer or runaway and by simple youthful logic each should be treated in essentially the same way. He is in no way prepared to understand the concept of individualized justice. But he will enter the arena and observe a court in operation expecting to defend his own best interests, and will appreciate little of what he sees' (p.203).

Earlier, in the wake of Ingleby, both Younghusband (1956) and Cavenagh (1956; 1959) had also speculated on the experience received by the child and his parents. Again they stress the expectation of a punitive function, a faith in rational argument and a disregard for reform.

'The picture in their minds is far closer than the one in ours to the old concept of the cruel, punishing court, meting out harsh sentences to make the punishment fit the crime ... Here, then, in the juvenile courts are two sets of people talking to each other from within two different worlds, the magistrate and probation officer on the one hand and the children and their parents on the other hand' (Younghusband, 1956:183).

The problems of communication and of anxiety are also appreciated, together with the inadequate understanding of legalities and of procedure. Kafkaesque imagery is common in depicting the isolation of the victim.

'As the hearing proceeds, each member of the Court plays a rigidly defined role, and it sometimes seems as if the child and his parents were characters in a play where everyone else in the cast had rehearsed and knew their lines and their entrances, but the family are there in the centre of the stage always trying to sense what is expected of them and what is the right thing to say' (Power, 1966:8).

From American experience of working in detention homes and in a probation department Studt (1962) suggests that there are three recurring images expressed by clients: the court is an amorphous and contradictory organisation in which procedural clarity has degenerated into confusing informality such that it is difficult to know what to expect and from whom; it appears, most especially to older teenagers, to be a naive and unrealistic organisation which fails to appreciate their near-adult status; and under the guise of *parens patriae* it

usurps all parental rights and responsibilities, a deprivation which leaves parents bitter and inadequate.

Studies which have actually questioned defendants tend to confirm the speculation outlined above. Howells + Brooks (1966) and Power (1966) both concentrated mainly on procedural elements in their studies, Howells + Brooks asking one hundred boys from a variety of areas to complete questionnaires as soon as possible after their court appearance, while Power interviewed children and parents immediately subsequent to appearing at a London court and again a week later. Langley et al (1978) report from Canada on a study of expectations prior to a first court appearance and compares the reactions of the fifty youths to the experience in relation to the outcomes which were granted. Complementary studies of the child's perceptions by Scott (1959) and of the perspective of parents (Voelcker, 1960) are more comprehensive in their discussion. Scott uses the written accounts of boys in a remand home to confirm the traditional expectation of trial and sentence with resentment when proportionality is breached - 'three years for taking a 6d comic' (p.207) - and suggests that children's reactions to the court are closely affected by their home experiences, the most disturbed children demonstrating the more extreme reactions. For a group of parents contacted through a boys' club Voelcker characterises 'two mutually unrecognized worlds' (p.166), again questioning the understanding of the treatment principle, cumulative punishment rather than the application of alternative treatment methods being their interpretation of court disposition. As above however, the ambiguous nature of actual practice must be recognised.

'At the moment, disposals depend upon a curious mixture of reform and punishment and it is hardly surprising that many parents neither understand nor are in sympathy with them' (p.165-6).

Over two thirds of the parents feel that punishment should be the governing principle of the court, although the majority cited the neighbourhood and bad company as the cause of their child's delinquency, with a third viewing the delinquency as a norm. To pursue the treatment of the abnormal is likely only, Voelcker concludes, to further alienate unless a clearer understanding can be achieved.

Morris + Giller (1977) were interested in whether changing legislation had led to a revision of this client perspective. Consequently they interviewed a group of twenty seven children and twenty nine parents appearing before a juvenile court over a three month period. Both pre- and post-court interviews were conducted together with observation during the actual court hearing. Again for both parents and children an expectation of tariff criteria was confirmed

'They shouldn't look at your home, they should only look at the offence. At home you don't do anything wrong. They should only look at your home if you've done something wrong there' (p.201)

and communication in the court remained routine. Individualised disposition tended to invoke a sense of injustice and alienation. That families remained generally satisfied with the court proceedings may well imply, Morris + Giller conclude, that despite reforming legislation magistrates' decision-making remains dominated by offence criteria and that indeed

'parents may support and children may respect the juvenile court only for as long as it maintains a justice approach' (p.205).

Martin (1978) suggests that Morris + Giller are somewhat optimistic in interpreting their responses as offering 'support' and 'respect' and also criticises the general methodology

'it is sociologically and politically naive to identify such responses as constraints on social reform without some attempt, however modest, to analyze the unexpressed beliefs about institutions and their function which are implicit in those responses and to consider in what circumstances these taken-for-granted assumptions might themselves be changed' (p.82).

Nevertheless it remains one of the few recent attempts to elicit any indication of the consumer response. Parker (1979) provides a summary of other efforts; all he concludes

'suggest, without exception, that young defendants and their families expect criminal procedure and disposition in juvenile court to be based upon principles of justice' (p.138).

A few studies have concentrated on a specific aspect of the court appearance. Lipsitt (1968) for example obtained semantic differential ratings from a group of 265 boys both before and after court hearings in order to compare dimensions of potency and evaluation of both self and the judge. Scores were related to the perception of participation in the court process and to perception of interest on the part of the judge, with some comparison of behaviour differences between three judges. Reactions to the role of counsel in the juvenile court are discussed in three American studies, Johnston (1969), Walker (1971) and Catton + Erickson (1975). In a largely statistical survey Walker distributed questionnaires to five hundred delinquent juveniles in a range of institutions while Catton + Erickson, in a pilot study, concentrate on the important non-institutionalised majority. The role of defence counsel throughout the proceedings was observed and the child interviewed

immediately following his court appearance on his perception of the counsel. A general lack of understanding was revealed, including ignorance as to the actual identity of the lawyer.

Other studies have embraced court experience during their wider examination of a particular delinquent environment. Parker (1974) for example in his 'view from the boys' provides some vivid accounts of encounters with the courts and other law enforcement agencies. Theatrical imagery is standard, with the judgement of moral character perceived as the main concern.

'Court is part of the Authority Conspiracy where 'they' come together, holding all the trump cards. Court is where the police change their style from the street corner slugging to a subtle word game with the other actors to create a more potent and mysterious degradation. Court is where the 'truth' is fornicated so that 'their side' is over-emphasised through 'lies' and 'twisting things'. Court is where a whole collection of middle-class officials can say what they want about you and you can't do anything about it. Court is a circus which leads to the zoo' (p.180).

As part of a critique of the labelling perspective Ericson (1975) explores through participant observation and personal construct techniques the attitudes towards authority figures including the courts held by those sentenced to detention centre. A similar study of the attitudes at the point of institutionalisation is reported by Maher + Stein (1968) and Baum + Wheeler (1968), sentence completion and modified repertory grid techniques as well as in depth interviews being administered to ascertain attitudes towards figures such as the judge, policeman and probation officer. In particular it is felt that the way in which the courtroom experience is interpreted can be an important determinant in the subsequent orientation towards institutional life.

The experiences recalled from the court are the now familiar ones of bewilderment and incomprehension with commitment not for therapeutic rehabilitation but as deterrent punishment. Unlike several studies however the decision-making process was generally accorded legitimacy, with little overt hostility.

But all these studies are only peripheral to our central concern: for the client perspective on the hearings themselves only two studies can be cited, one speculative and the other based on contact, and both can be fairly readily dismissed. Bruce (1975) has suggested that in the absence of more direct evidence some idea of parental attitudes can be gained by looking at various surrogate measures. He cites for example the numbers who fail to attend the hearing, the numbers who express disagreement with the decision of the hearing, the numbers who appeal and the numbers who exercise their right to ask for review of a supervision requirement. But Bruce's extrapolation that therefore 'the processes and decisions of hearings appear to be acceptable to ninety-five per cent of those parents who attend' (p.344) cannot be allowed. Parents may accept the ground of referral, even the disposal, but still be deeply dissatisfied with the conduct of the hearing. They may feel humiliated or distressed without openly revealing it and they may dispute a decision but feel powerless to appeal. Statistics are no substitute for more meaningful attempts to assess reactions. Willock (1972; 1973) was interested in parental attitudes on the assumption that effective participation requires a knowledge and understanding of procedure and objectives and an attitude of co-operation. His first study contacted parents through the Reporter and

achieved only a 34% response rate. A personal approach at the hearing adopted in the second study proved more successful and attained a response of 79%. The interview in both cases was highly structured and appears to have operated on a fairly simplistic level; there was little opportunity for example for parents to explore the conflicts and ambiguities within the system or to discuss the problem of shared meaning. A significant comment is made

'Parents may not have shared the understanding of the panel members and Reporter, but have been unaware that they did not understand' (1972:6).

Conclusions therefore tend to be simplistic. Willock suggests a general acceptance of the principles of the system, a general facility to communicate and participate, and a preference for hearings over a court system. 89% for example of the 1972 study expressed agreement with the decision; 77% (54) of the 1973 study considered that the purpose of the proceedings was to help the child rather than to punish him, though a further 14% (10) added 'to help and punish'; 80% (57) approved of the people sitting on the panel; all but two felt they could say all they wished.

Giller + Morris (1977) however have re-examined Willock's conclusions and suggest they should be interpreted with caution. Half of the cases were not initial referrals but reviews, hearings which may be less stressful and more positive. More importantly Giller + Morris suspect that though parents repeat the doctrine of help this may merely be a reiteration of what they have been told by both social worker and chairman rather than their own prescription of what they consider the function should be. Similar ambiguities in questioning and

interpretation lead Giller + Morris to question the apparent congruence between hearing philosophy and client approval. In particular there is again the possibility that the rhetoric masks an operation in which the exercise of tariff disposal by panel members matches traditional expectation of conduct based disposition. That the majority of parents gave as the reason for the panel's decision their child's behaviour would confirm this suggestion.

'The apparent congruence of perception between parents and hearings in Willock's survey may say more about the similarities of the Scottish system with its English counterpart than its success in promoting welfare ideology and practice ... It seems clear that further research on the clients' perspective is necessary, for available research seems to question the appropriateness of pursuing further a policy of social welfare' (p.229).

At the start of the research reported here there had been no similar attempts to question the child on his perceptions, although Brown (1976) had reported on informal discussions with children who had attended hearings. The neglect was such that it had led McCreadie (1977) to question 'is this because it is assumed that such people are incapable of literacy?' (p.103) In the intervening years however research has been completed by the Children's Hearings Research Project (Martin, Fox + Murray, 1981) which includes reports of interviews with a sample of 105 children immediately after their hearing (Erickson in ed Martin + Murray, 1982) and also an account of a rudimentary study of the parental response, parents of thirty six of the above children being approached. From England, Parker, Casburn + Turnbull (1980; 1981) have reported on the production of criminal justice in two somewhat different courts, countryside and city, from the perspective of both parent and

child. It is to the importance of such research in general that the following chapter will be addressed.

Summary

A number of important themes have emerged from this chapter. Firstly the Kilbrandon Committee afforded to the parent a specific role in the process of juvenile justice which had received little emphasis before that date. Both through its stress on the role of family pathology and through more practical details for involvement of the parent in the hearing itself the Committee and the subsequent legislation pointed a major initiative on parental involvement.

Secondly the establishment of the system of children's hearings has provoked fresh debate on the merits of the traditional justice - welfare dichotomy, arguments which are important as a backcloth to the parental opinions which we shall be seeking.

Thirdly, and continuing this theme, the ideologies of various of the participants in the hearing process have been identified, research which highlights the conflicting elements and processes which may be present at any one hearing. Again the provision of similar material for parents will contribute significantly to the debate.

Fourthly, and as a lead to the next chapter, the work that has been done on the client perspective in juvenile justice has been outlined. From the few studies that have been done the most important indications appear to be that parents expect a system which is characterised by features consistent with the principles of the justice approach. They expect a punitive element and a tariff criterion and are unimpressed by arguments for individualisation.

CHAPTER TWO : The Consumer Perspective

The consumer studies relevant to juvenile justice, those which have sought the responses of the parent or child, have already been isolated in the preceding chapter. It is not overcritical however to characterise these studies as fairly isolated and idiosyncratic, apparently ad-hoc responses to an individual's recognition that perhaps the view of the client could or should be sought. Only the studies of Martin, Fox + Murray (1981) and of Parker, Casburn + Turnbull (1981) are concerned with the wider context of the client and place their judgements against those of other key participants, allowing a comparative perspective which underlines the subjective nature of the individual response. It is appropriate as we contemplate a study in this idiom to explore to what extent these examples are characteristic of consumer studies as a whole and to elaborate on what are the particular strengths and weaknesses of the field.

This chapter attempts an overview of the role and status of the consumer study within social welfare as a whole, a compass widely defined in order to embrace literature ranging from explorations of various of the counselling agencies to more specific assessments of the services provided by individual organisations. The recent work by Rees + Wallace (1982) is the first comprehensive attempt to generalise from the various disparate studies and to approach a synthesis of the several elements that emerge as common to a large number of the responses.

A general neglect

Interest in the consumer perspective within the general field of social welfare can at best be termed sporadic, surfacing now and again in a few classic studies (Mayer + Timms, 1970; McKay et al, 1973; Sainsbury, 1975; Rees, 1978), but more often retreating into good intention. Nowhere is this more evident than in the central enquiry of Seeborn (1968). Despite reference to consumer participation, to the accessibility and acceptability of the proposed departments, services were reorganised without client representation, the committee

'regrettably unable to sound consumer reaction to the social services in any systematic way' (para 43).

Earlier the Younghusband Report (1959) had proffered a similar apologia.

It

'would have liked to have undertaken a supplementary enquiry into the reaction of those using the services. An investigation of this nature would, however, have prolonged our own enquiries unduly' (para 10).

Such reasoning hardly speaks of high priority. It is not surprising therefore that by general consensus we remain 'profoundly ignorant' (Mayer + Timms, 1970:2) of how the consumer responds to the services she is offered, her interpretation of their purpose and her perception of their utility. As Pinker concludes from his review of social policy debate (1971)

'We know almost nothing about the reasons for which citizens use services as they do, or about what attitudes lead them to feel deterred or encouraged in the search for assistance' (p.202).

The reluctance to pursue the consumer response may surprise those to whom it appears a self-evident truth that validity lies in the assessment of a service by those on the receiving end

'The patient's evaluation is crucial. Right or wrong, it determines whether he accepts therapy or rejects it, remains in treatment, or leaves' (Kamin + Caughlan, 1963:660)

The majority however obviously require greater persuasion and are perhaps understandably wary of too readily acceding to views expressed by clients who may represent only an articulate minority.

In support of the client perspective

Perhaps the most critical argument for the pursuit of client feedback relates to the criteria of effectiveness. Until recently there appeared to be a marked reluctance amongst those active in social welfare to acknowledge the debate on effectiveness; a complacency was apparent which militated against any attempt at critical evaluation. Thus after Fischer (1973) had catalogued with depressing repetition the lack of effectiveness revealed by eleven studies of professional casework he had to conclude,

'it seems as if, by some tacit arrangement, the major contenders in the issue of effectiveness had agreed to let the matter drop'

The sceptical climate of recent years however has forced a more rigorous attitude to evaluation, a trend documented by both Goldberg + Connelly (ed 1981; 1982) and by Rees + Wallace (1982). Goldberg + Connelly (1982) offer five justifications for evaluation: public accountability, deployment of resources, effectiveness, cost effectiveness and safeguard against the 'new'. The essential requirement however is for definition, a clarification of what form of activity with which client in which specific situation is being assessed. As Smith (1978) reminds us in his discussion of 'success' in the context

of the Children's Panels, 'evaluative research is only as sound as the evaluative criteria it employs' (p.279). Such specification it is suggested may offset some of the negative findings of Fischer (1973; 1978); indiscriminate use of casework may be ineffective but this need not negate more selective application. Nor (Rees + Wallace, 1982) should the possible failings of casework be used as ammunition against other forms of intervention. Thus the contributors to Goldberg + Connelly (ed 1981) discuss the use of a range of criteria to evaluate a wide variety of specific projects, task-centred intervention in parasuicide to domiciliary care of the very old.

Our concern therefore with evaluative research is for the contribution which can be made by the client to these questions of effectiveness and of resource management. It is not the only nor necessarily the dominant perspective but one which should not continue to be ignored and whose role in the often political process of evaluation should be acknowledged. It is a commitment to the notion that the most satisfactory assessment is that which is aware of and able to respond to the perceptions of all those who have an interest in that particular endeavour. If the discourse therefore sounds at times a little polemical it is offered only in an attempt to redress imbalance.

The search for effectiveness, albeit carefully defined, should continue to be pursued and an essential component to any judgement of effectiveness must be the response of the client herself. The worker, the client or the community may have quite different criteria for judging outcome, but unless a service is considered relevant by the client it is unlikely to succeed on any assessment which extends beyond

consideration of social control to a concern with the individual.

'If the delinquent is to be sufficiently motivated to sustain a treatment relationship, the professional must understand the delinquent's expectations and then devise an appropriate strategy' (Gottesfeld, 1965:57).

Direct feedback is required on the impact of social welfare intervention, on how clients interpret and react to that which they are offered, on the extent to which the help or services they are offered are viewed as appropriate or problematic. Until consumer opinion is investigated there is no certainty that scarce resources are being effectively deployed or that declared goals are being achieved. The administrator concerned with maximisation of her investment should seek confirmation from the client that her return is going to be satisfactory; the professional looking to the impact of intervention should acknowledge that the client offers an independent interpretation of any interaction. The intention should be an awareness of what kinds of activity produce what sort of results with what type of client, knowledge which granted sufficient client input can provide the basis for evaluative decision-making.

Effectiveness also lurks as the ultimate aim behind a number of the secondary arguments which have been advanced in favour of exploring the client perspective. Overton (1960) suggests that in any healthy relationship there is give and take; the client can give her perspective of the relationship, whatever its basis, and can reveal the values and assumptions of her culture, pointing where they vary from those of the worker.

'There is no question about the value to us of client observations of social work methods. Our hypotheses about behaviour and how it can be influenced need all the correction or verification we can find. Our clients can tell us more about how they are influenced, or pushed away. They can suggest the more effective stimuli for change. They can - if we develop better methods of asking' (Overton, 1960:50).

Clients can identify what they consider to be good practice and appropriate behaviour for workers and can define what they see as the purpose of welfare intervention. They are apt to know considerably more about their thoughts, beliefs and reactions to treatment than do those who are trying to help. Rees (1975), chronicling how misunderstanding can arise between client and worker, suggests that it is essential for the worker to familiarise herself with the client's orientation - her knowledge and beliefs, her potential feelings of stigma, her response to authority.

'From whatever frame of reference these assumptions derive, whether or not people have had personal experience of being humiliated, the authentic facts of their subjective feelings are more likely to influence behaviour than the officially defined aims and traditions of service' (Rees, 1975:66).

The significance of this subjective perspective, the interpretative nature of all human experience, will be explored further in a subsequent chapter. The context of the consumer's perception can however be succinctly placed. Her understanding may or may not conform to what was actually offered. This in turn may or may not reflect official policy which may or may not be adhered to in the workers' own interpretations.

It is of course not only the face-to-face worker who should make the effort to listen to the consumer voice. It is of equal importance

for the administrator and policy maker to sensitize themselves to the human consequences of the policies that they engender. To generate policy statements without enquiring as to their translation to the client is to invite major discrepancy in policy performance. The intention is not to deny the role of professional knowledge, the validity that may be granted to the worker on account of her status. It is merely to allow, without entering the debate on professional expertise as myth or reality (see eg. Pearson in ed Bailey + Brake, 1975), feedback on how the directives of policy are actually experienced by those on the receiving end of their implementation.

A somewhat different justification for the consumer perspective draws upon the demands of natural justice. It is claimed that by democratic right the individual should have the opportunity to participate in decision-making concerning herself or her family, should have the right of dispute in contentious decisions, should be able to expect that as a matter of course her response will be respected. This approach can widen to a demand for the opportunity for greater participation by the client in the organisation and administration of services. At present there are few channels through which a consumer or potential consumer can make her views known. Indeed Keefe (1971) would maintain that the operation of many agencies denies to clients certain basic liberties. Certainly, unlike other professional clients, the social welfare client has usually little choice of status and is faced with a highly discretionary service where decision-making is complex and subjective. She has little right of appeal and may feel that decisions on for example visits by children in care are highly

arbitrary. Studies by McKay et al (1973) and Glampson et al (1977) reveal considerable interest in participation in the running of services and both Glampson et al and Keefe (1971) have suggested setting up lay advisory committees. Keefe stresses the necessity of membership representative of a wide spectrum of society and suggests that a powerful pressure group and appeal body could develop, an antidote to increasing bureaucratisation.

'It is a mark of professional maturity to be able to admit decisions are not invariably right' (Keefe, 1971:28).

A cry for increased participation is however very often a panacea, an optimistic directive which speaks of democracy and of redistribution. The strategy for its attainment, indeed what is actually envisaged by 'participation', is often less clearly specified, an ambiguity which will be explored at greater length in Chapter 7. Certainly the proposal for lay advisory committees raises the perennial issues of representativeness and of accountability, with the possibility that the advice of independent consumer bodies - tenants' groups, single parent organisations, claimants unions - may have greater authority. Nevertheless there have been reports, particularly from the United States, of attempts at consumer participation in the planning of various social welfare programmes. Campbell (1979) reports on one such programme, participation under Title XX of the 1974 Social Security Act, and encounters several of the inherent problems, difficulties with the dissemination of information and with the enlistment of potential participants. Nonetheless, he suggests, fairly simple strategies could overcome several of the obstacles, an effort that would be of considerable benefit.



'Participation by consumers in planning social service programs is valuable and necessary in a democratic system. Their participation enhances the potential for meeting human needs because it safeguards the rights of consumers of social services, serves as an alternative to adversary relationships between service consumers and providers, and directs social service planning efforts towards actual, known service needs' (Campbell, 1979:162).

Explanations of neglect

Given the strong arguments in favour of the consumer perspective, and granted a respectable tradition of client-oriented studies in other disciplines such as sociology and business studies, explanation has to be sought for its neglect in social welfare, an absence which Mayer + Timms (1970) find a 'fascinating chapter in the sociology of research' (p.12). There is in general always the tendency for what Becker (1966) has termed the 'hierarchy of credibility' to operate, those of highest status defining the ways things should be. Members higher in the hierarchy are credited with a greater knowledge and a more discerning judgement, less prone to distortion or to deceit.

'From the point of view of a well socialized participant in the system, any tale told by those at the top intrinsically deserves to be regarded as the most credible account obtainable of the organisation's workings' (Becker, 1966:241).

This tendency works of course to discredit the consumer and its implications have been highlighted by Cicourel (1968) in his study of the social organisation of juvenile justice.

'I feel the organized character of law-enforcement agencies renders the juvenile's 'real' views or motives almost irrelevant for the present study. The juvenile's views are not treated as possible sources of innovation and legitimate complaints or dissent, but as deviations from some presumed (community)

general policy or rules to which others adhere. Therefore, the juvenile's rights are few; they do not include the right to have different views about the nature of social organisation, community or family values, and what fathers and mothers, teachers, policemen, and probation officers should be like, because his delinquent status undercuts the right to such views' (Cicourel, 1968:161-2).

In the social welfare context the hierarchy is accentuated by additional features. The heritance of psychoanalytic concepts with which casework is endowed encourages workers to discount client judgement. They argue that her views are likely to be distorted and inaccurate, a derivation, particularly if negative, of her underlying problem. To give credence to her opinion is discordant with her imperfect status as a client. Moreover for the social worker her own status as a professional should in itself preclude evaluation or criticism: a professional by definition deserves autonomy over her clients. The client has no theoretical knowledge and is unable therefore to diagnose her own needs or to discriminate between 'treatments'. Investigation of client perception is a genuine threat, a challenge to professional competence and lacking a secure professional status social workers are reluctant to permit independent scrutiny. Unlike for example medicine, it is perhaps difficult in social work to isolate the treatment given to a person from the worker who administers it. The reluctance to tolerate consumer studies is illustrated from Wales where Glastonbury et al (1973) found social workers expressing the strong view that they served no useful purpose. They suspected the motivation of those seeking consumer reaction - 'industrious denigration can often spell academic promotion' - and rationalised that at best the consumer could have only a fragmented and incomplete picture

of social work, at worst little more than a jumble of prejudices. They considered that though the client may understand more material aspects she would be unable or unwilling to take note of less tangible elements. Again, because the client is bound in a stressful situation workers are sceptical of the value and objectivity of her judgement.

The structure of the social services is also likely to inhibit consumer reaction. Clients are isolated from each other with little opportunity for interaction and grievances tend therefore to remain individual and unexpressed. Despite the activity of groups such as the Claimants Union or Gingerbread there is no consumer group which encompasses all clients. And as Giordano (1977) illustrates it is the more organised consumers who tend to be heeded. Workers are more likely to be concerned with the satisfaction of voluntary clients who could choose to depart than with the demands of for example isolated prisoners. The increasing size and complexity of departments is also an obstacle to client participation, an excuse very often to justify decision-making being kept in the hands of the 'experts'. Workers may also fear that any approach to the public will increase unmanageable demand still further. Departments, goes the standard rhetoric, are overworked and short of resources and therefore consumer studies cannot be considered a priority.

The vagaries of the research environment may also have contributed to the neglect of the receiving end. Mayer + Timms (1970) suggest that exploratory studies are of relatively low status in the research field; they lack the 'hardware', the emphasis on scientific technique, and therefore the client has been a less than attractive focus for social

work research. Moreover to search out the subjective responses of the individual requires comparatively unstructured techniques, strategies which were not always perhaps readily accessible.

Both Shaw (1976) and Giordano (1977) suggest that through the gradual relaxation of these various limiting factors the last few years have witnessed a greater receptivity towards the idea of consumer research. The stress on psychoanalytic concepts has decreased, qualitative research has become more respectable and the gradual emergence of consumer groups has eroded to some degree the structural isolation. Moreover, argues Shaw, left wing political influence in social work has pointed the value of working class culture. Professionalisation of the social worker with its consequent reification becomes a less desirable goal and the client is afforded a greater measure of self-determination. Giordano (1977) however sounds a note of caution. Officialdom may respond promptly to the demands of emergent pressure groups in an attempt to forestall greater disruption, or may court client participation merely to facilitate the achievement of organisational goals. Short term adjustments may be made but long term strategy still pays little heed to the consumer voice. The form is co-option rather than co-operation.

Consumer research as problematic

For those eager to contribute to the expansion in the number and range of consumer studies there lurk a number of problems and dangers. Agencies may be reluctant to co-operate and allow access to their clients, wary that the confidentiality ethic is being breached or fearful

that a research interview would damage the worker-client relationship or be emotionally upsetting to the client. Such reticence is usually expressed without heed to the preferences of the client, and is in fact usually discounted in practice where clients have been found to be more than eager to participate. It is but one example of the credibility hierarchy in operation, a tendency for the organisational perspective to dominate. This often manifests also in a bias towards official definition, goals defined in organisational terms, areas of questioning which reflect the preoccupation of the professional rather than anticipate the interests of the client. Gottesfeld (1965), in an attempt to compare evaluations of different treatment procedures by both professional and delinquent, highlights the dichotomy.

'The professionals originated the questionnaire items; had the delinquents originated the questionnaire items new dimensions may have been present. Thus, there may be preferences of the delinquent which were not expressed throughout the research instrument' (p.57).

An inherent conservatism emerges, an assessment of the status quo rather than an appraisal of alternatives. Even before this discrepancy there may well be confusion over language and terminology, a difficulty in finding a framework shared by both interviewer and respondent, witness Cohen (1971)

'If the client has no knowledge of who does what, it is difficult to find out which service he is talking about and one ends up asking questions which the interviewee cannot really answer' (p.42).

This researcher found indeed that amongst his sample of retarded mothers-casework was not regarded as part of the service, it was 'the interference' one had to tolerate in order to receive the service. Such assumptions have to be exposed before meaningful discussion can occur.

Some clients may be reluctant to criticise. They may feel indebted, as the clients of a Mother and Baby Home quoted by Timms (1973),

'What right have we to complain? Are we queens?
We should be grateful for anything people do for us' (p.3)

or may be unable to separate personality from the service provided, feeling disloyal if they criticise a respected worker. On a more calculated basis there may be problems with response validity, the client offering not necessarily her genuine opinion but that which she thinks the interviewer would prefer to hear. Such dangers will be examined more fully in the discussion of methodology.

Giordano (1977) highlights a number of variables which may intervene in the client's evaluation of the agency. Some of these are organisational and extend the problems identified above. For example a distinction has to be drawn between the quality of worker-client relationships and the actual organisational effectiveness: in her study of the client perspective on the juvenile justice system Giordano discovered that boys had positive attitudes towards their probation officers whilst at the same time considering them relatively ineffective. An individual's assessment may also reflect certain characteristics of the organisation itself and its relationship to the client rather than its actual effectiveness. More punitive agencies for example may be judged less favourably irrespective of their efficiency. Length of contact with an agency and contacts with alternative sources of help may also intervene to influence the client perspective. Again Giordano found that the more experienced juvenile clients expressed a greater liking for the legal representatives, but at the same time considered

them to be less effective than those with less contact.

Any of the pitfalls outlined above may be encountered in the attempt to elicit a consumer perspective. In seeking to apply any such perspective in the formulation of social policy further problems may arise. It is often difficult, Shaw (1976) suggests, to be confident that the views which have been elicited represent the total client group. If the sample has been biased to a perhaps unrepresentative pressure group or to a minority distinguished by some unique identifier this will obviously discredit any attempt to generalise. The changing or ephemeral nature of some client opinion may also render it invalid. Policy cannot, it is argued, be directed by opinions which are so bound to individual circumstance that there is unlikely to be any long term commitment. But perhaps the most critical limitation to consumer formulation of policy is a tendency to inhibit experimentation. It has been argued, again by Shaw (1976), that consumers are likely to envisage only a limited range of alternatives, to have insufficient information to be able to make a considered choice between competing strategies, and to therefore opt for the conventional. An alternative argument is that independent of professional or administrative constraints the consumer may formulate proposals that are refreshingly original. Moreover there should be scope for a dialogue which can discuss with the consumer their service requirements and the policy implications which these may have. Alternatively, as Bayley (1973) has demonstrated, the actual behaviour of the consumer, in this instance the families of mentally handicapped adults, can be observed and policies evolved which respond to the needs

exhibited. From this premise Bayley devised a strategy for residential hostels very different from the Government White Paper recommendation of hospital based care.

An overview of consumer studies

Against this background of neglect and potential danger it is perhaps appropriate to look briefly at some of the studies which have been achieved under the consumer label. Those immediately pertaining to juvenile justice have already been presented in the opening chapter. This review of the wider context will necessarily be summary and will highlight examples relevant to the discussion above rather than pursue the substance of the individual research project. The most widely quoted client impressions are probably those gathered by Mayer + Timms (1969 + 1970). Sixty one clients of the Family Welfare Association, equal numbers deemed satisfied and dissatisfied, were interviewed for their perceptions and reactions to casework treatment. Both among those seeking help over inter-personal problems and among those seeking material assistance a considerable clash in perspective between worker and client was revealed. Clients looked for judgement and action and reacted to insight-oriented counselling with surprise and bewilderment. They tried to rationalise the workers' odd behaviour, the workers themselves unaware of the differing perspective of the client.

'Viewed from a distance, the worker-client interactions have the aura of a Kafka scene: two persons ostensibly playing the same game but actually adhering to rules that are private' (Mayer + Timms, 1969:37).

This is perhaps the major contribution of Mayer + Timms, an exposure of the very different priorities relevant to the two parties which, without

appreciation, are likely to seriously inhibit if not prevent effective communication and action. The significance accorded to Mayer + Timms' study has recently been challenged by Stevenson (1983), who reduces it to a 'modest and methodologically shaky study ... in one atypical voluntary agency' (p.40). She suggests that the sociological climate of the time created an atmosphere particularly receptive to findings that could be interpreted as critical of social work.

Nonetheless the discrepancies revealed by Mayer + Timms have been confirmed in a number of replicatory studies. Lishman (1978), somewhat dangerously using a sample of her own clients, endorses the necessity of a shared framework if satisfaction is to ensue, while Leichter + Mitchell (1967) highlight the additional problem of cultural differences, the kinship beliefs and practices in a Jewish community revealed as very different from those of the workers. From an in-depth study of twenty-seven clients of the Family Services Unit in Sheffield, Sainsbury (1975) confirms the preference for supportive-directive help rather than insight therapy. He moreover challenges several of the widely held conventions of social work practice. For example there appeared to be no specific advantage in avoiding a change of worker and the client felt more empathy if the worker disclosed relevant aspects of her own life. Further evidence from Family Services Unit clients has been collected more recently by Phillimore (1981). As part of a larger project (1976; 1978), Rees (1974) has produced a damning indictment of eight cases in which social work involvement amounted to 'no more than contact'. The picture is of confusion and misunderstanding, transitory meetings with little real communication and

the social worker but one of a host of superficial contacts. The client is unaware of worker ideologies and unaware that he can negotiate decisions - 'he has not only forgotten his lines, he didn't know he was on the stage' (p.268). Confusion extends even to arrangements over meeting, the dilemma of the fourteen year old who has to ask, 'please, sir, am I on probation or not'.

Following Mayer + Timms' exploratory study of a voluntary agency, McKay, Goldberg + Fruin (1973) were the first to obtain the views of a random sample of local authority clients. Their study of 305 clients from Southampton concentrated on expectations and opinions of service and compared these with the differing perceptions of the social workers. As part of a continuing program of research conducted by the National Institute for Social Work Research Unit and Southampton University this was paralleled by a broader investigation of the knowledge and perceptions of the social services held by the general public (Glampson, Glastonbury + Fruin, 1977). A particular concern of these studies was identification of the level of awareness of both community and clients and to this end a number of vignettes were posed. The extent of community knowledge is also explored by Glastonbury, Burdett + Austin (1973) in a study of families in South Wales. Here the research approach is reversed and families are asked to describe the nature of the job done by a number of welfare workers. The emergent impression is one of confusion and ignorance, a blend of misconception and fantasy which contributes little to the development of a comprehensible and accessible service. The picture had changed little since a decade earlier Timms (1961; 1962), endorsed by Mitchell (1963), catalogued the

state of public knowledge as 'vague, confused and arbitrary'.

At a more specialised level, the client perspective has also been used in discussion of the individual components of social casework. Schmidt (1969) for example explores the use of purpose, Reid + Shapiro (1969) investigate client reaction to the amount of advice given by the caseworker, and Macarov (1974) challenges the thesis that there must be mutually agreed goals between worker and client for treatment to be successful. Examining assessments by workers and clients in Israel he concludes that there is generally little relationship between successful outcome and agreement as to the nature of the problem. He suggests that pseudo-agreement may operate, the client following the cue of the worker; it is a rare client who breaks cover to declare 'let's not talk about my kid anymore, let's talk dollars and cents'. Tessler (1975) is concerned with reactions to initial interviews and from experimental material he distinguishes relationship-centred satisfaction, appreciation of the worker, from problem-centred satisfaction, the ability to help.

These detailed studies expanded on more general follow-up studies which had sought client evaluation of their counselling experience (for example Kogan, 1953 + 1957; Sacks et al, 1970) and have probably been influenced by similar assessments in the field of psychotherapy (Polansky + Kamin, 1956; Strupp et al, 1964; 1969). Given the dependence of casework upon psychoanalytic origins it may be appropriate to mention the range of studies of the client perspective in psychotherapy, studies (predominantly American) which predate any concern for the client in the social welfare sphere. Lipkin's study (1954) was

perhaps the first to be concerned with how therapy was perceived and experienced, and anticipates others in being particularly interested in identifying the factors which influence outcome. Ballard + Mudd (1958) examine possible sources of difference in the actual evaluation of the effectiveness of counselling. Likewise, Blaine + McArthur (1958) compare the differing judgements as to significant therapeutic events made by patient and by psychotherapist. Totally separate concepts of insight are revealed, the therapist concerned with uncovering unconscious factors and correlating childhood experiences with symptoms, the client concerned only to gain a changed self image or a changed perception of others. Kamin + Caughlin (1963) concentrate on the information former patients can offer towards an increased understanding of the actual process of therapy, revealing for example the crucial importance of attitude towards the therapist, none of those expressing negative feelings towards their therapist feeling that they had been helped. Again more specific, Aronson + Overall (1966) compare the differing expectations of middle and lower class patients as they enter psychotherapy. They suggest that variation is not so much in the content of therapy but in the therapeutic techniques to be used. Finally, and to counteract any false impression that this listing reflects more than an abundance of consumer studies in this field, Feifel + Eells (1963) stress again the necessity of the perspective and emphasise

'the meager heed given to the patient's viewpoint of what happens in psychotherapy and its influence on him ... despite the stumbling blocks, the involved parties in psychotherapy are still in the most favoured position to provide us with promising leads concerning what takes place' (p.310).

Also predominantly American are the studies which explore 'from below' (Briar, 1966) the financial aspects of welfare provision. Many of these are concerned with recipients of the AFDC program (Handler + Hollingsworth, 1971; Buchanan + Makofsky, 1970), including particular interest in the experience of unmarried mothers (Roberts et al, 1965) and in the attitude of mothers to a work incentive program (Reid + Smith, 1972), research closely linked to policy implications. Financial provision is of course closely bound to questions of worth, the deserving poor. Briar (1966) found that amongst 92 AFDC-U recipients the dominant posture was one of submission, extensive powers of mandatory counselling, midnight visits and accountability being granted to the agency.

'The stance these recipients adopt towards the welfare agency is not that of a rights-bearing citizen claiming benefits to which he is entitled by law but that of a suppliant seeking, in the words of a number of recipients, 'a little help to tide us over until we get back on our feet again'' (p.377).

Stuart (1975) contrasts recipients' views of cash versus in-kind benefits, and demonstrates that cash benefits carry the greatest stigma. Interestingly recipients felt they had the power to influence the way in which they were treated, two thirds considering that collective action could be effective. The issue of stigma is pursued also in a study by Clifford (1974) which explores the attitudes of both clients and the general public towards three income maintenance schemes operative in a small Irish town. For both attitude layers vignettes were again employed as a research tool, and though there were detailed differences the general pattern was one of convergence in attitude of both client and community. Indeed Clifford maintains that it is because the client

experiences stigma that she can identify with the wider community, a desire for integration rather than alienation. Public opinion on welfare provision is also sought by Ogren (1973), a study which attempts also to identify the community beliefs on the causation of poverty.

Although evaluation is a concern of many of the studies that have been cited, a number are specifically (and statistically) directed to this end. Thus Gottesfeld (1965) lists sixty-five professional methods used with delinquents and has them rated by both professionals and delinquents as to desirability. Factor analysis produces six basic dimensions for the two groups and the results identify the items which both groups value in common, those they reject in common and those over which they differ maximally. Strategies are suggested by which the professional orientation could be more appropriately adapted to the preferences of the delinquents, more meaningful treatment methods hopefully thereby being devised. Beker (1965) is also concerned with adolescents, with the perceptions by male inmates of the helping persons around them. One hundred inmates were asked to rank the potential of various staff for meeting four particular personality 'needs', mean rankings being derived for each staff group on each of these needs. Keith (1975) examined the degree of similarity between professional and client assessment of need for additional health social services for the elderly. Elderly and professionals in a mid-west town were asked to evaluate priorities for additional services in twenty-three fields. General agreement was high although with some extremes. Keith suggests that unlike other studies the relative congruity was due to the close

contact between the professional and the client, the clients representing the whole community.

Crude categorisation has identified a number of strands in the consumer research. A number of studies remain which stand out with any of the groups above. This is not entirely surprising for the research field has been characterised by relatively unstructured studies, one-off investigations where the only unifying feature is that a client group is involved. The research is characteristically small scale and individual, a single investigation rather than, with the exception noted above, a link in a broader investigation. Thus an inventory ranges over adoption policy and practice (Goodacre, 1966; Triseliotis, 1973), the relatives of schizophrenics (Creer, 1975) and the parents of children referred for child guidance (Burck, 1978), the experiences of retarded mothers (Cohen, 1971), of the parents of day care patients (Handler, 1973) and of the mentally handicapped (Bayley, 1973). More recently Thoburn (1980) has completed an impressive study which explores the sensitive area of 'captive clients', the experiences of families who with children in care have them returned home on trial.

A number of other studies embrace consideration of the consumer perspective as part of a wider research program. Butrym (1968) for example studied medical social work at a London hospital and included interviews with a number of patients, both on the role of medical social work in the total treatment and its effectiveness in helping the individual and her family. In a study of mother and baby homes Nicholson (1968) sought to discover both through group interview and individual questionnaire whether the care offered was appropriate to the

needs of the residents. The much cited assessment by Goldberg (1970) of the effectiveness of social work with the elderly also embraces the client perspective. Elderly clients were assigned to a special or comparison group and the social work help they received over ten months was monitored. The final assessment includes questions designed to elicit the feelings and attitudes of the elderly towards the help they have received. Finally, Marsden's study of lone mothers (1973), poverty and the fatherless family, includes reactions from the mothers studied to various aspects of local authority services.

One interesting development has been the direct presentation of the experiences of those brought up in residential care. Pioneered by Timms (1973) who asked several on the receiving end of child care services to write of their impressions, this was followed in 1977 by the Who Cares? document, the voices of children in care who on the initiative of the National Children's Bureau discussed many aspects of their lives in care. Most recently Kahan (1979) has assembled the experiences of long term residential care which were recalled for a series of discussion groups held with ten adults.

This rapid survey of the major consumer studies has attempted to indicate something of the variety and the nature of the consumer research which has been accomplished in the broad field of social welfare. Although they are somewhat disparate in nature the synthesis recently accomplished by Rees + Wallace (1982) suggests that two main themes can be identified that are common to many of the studies. Firstly, clients' feelings of satisfaction and of being helped appear to be related to characteristics of the therapist (used in its broadest

sense), to the relationship between client and therapist, and to the client's assessment of the general tone of the encounter. Secondly a major factor in the client's evaluation is the actual outcome of the encounter, the extent to which the desired objectives are achieved. Although these two elements often merge or are compounded by other factors they are important and will re-emerge in the discussion of our own study.

A broader context

The impression which emerges from this overview of the consumer literature is of a series of pragmatic and undeveloped enquiries. Each is a gentle challenge to the established orthodoxy but there is no coherent development, no serious confrontation which starts to expose the structure itself to critical gaze. The discussions in the majority are atheoretical and take little if anything from contemporary sociological debate. Few of the studies for example ever acknowledge the value judgement inherent in approaching the consumer or recognise the potential for conflict that is thereby created. And few are sensitive to the methodological implications that arise if there is to be a genuine attempt at client evaluation. There has been little attempt, if any, to assess the consumer literature outside of its immediate subject-bound context.

An entry into the debate can be gained through the exchange that developed between Gouldner (1961 + 1968) and Becker (1966). Gouldner's seminal paper of 1961 exposes the repeated insistence on a value free sociology to be a myth, a retreat of the beleaguered academic

seeking professional status. The implications of this stance are pursued further by Becker, who, expanding on his notion of the hierarchy of credibility which we examined earlier, concludes that, resisting claims of bias, the researcher must openly acknowledge her allegiance. The sociologist has no option but to be partisan. And Becker goes on to demonstrate this stance in his various portrayals of the underdog, classics in the sociology of deviance, *The Other Side*, 1963, and *The Outsiders*, 1964. This however proved too much for Gouldner. In a closely argued response (1968) he challenges the validity of much of Becker's argument.

'I fear that the myth of a value-free social science is about to be supplanted by still another myth, and that the once glib acceptance of the value-free doctrine is about to be superseded by a new but no less glib rejection of it' (p.103).

The debate is a microcosm of the much broader movements in sociological thinking, a pattern chronicled above all by Pearson (1975) who charts the development of what he terms 'misfit sociology'. It is an encompassing description which includes labelling theory, Matza's naturalism, the commitment to 'telling it like it is' (Taylor, Walton + Young, 1973:173). It is also a source however where many concepts and doctrines which appear relevant to those advocating a consumer perspective would seem to feature. Here at least is some unified argument which can place the individual client in a wider context. But few of the links have been attempted. It is to these considerations that the next chapter will be directed.

Summary

This overview of consumer research has attempted an explanation for the status of such research, an indication of the diverse nature of the various studies and an exploration of the problems which will likely be encountered in attempting to pursue such research. Most importantly however it has highlighted the inadequate conceptual basis for the consumer study, an absence which the next chapter will seek to remedy.

CHAPTER THREE : Theory and Method

THEORY

The preceding chapter has highlighted the atheoretical nature of the majority of consumer studies. The search for a conceptual framework which could counter this neglect led fairly directly to an examination of the interest in the phenomenological perspective which had captured both sociology and criminology. A concern with interpretative sociologies in general and with phenomenological principles in particular had developed in a reaction to what has been indicted as the failure of positivism (McHugh, 1971), with an appreciation of the meaningful nature of social reality and therefore of the multiple interpretations inherent in the construction of social action by the individual. The focus shifts from one that seeks explanation of an accepted objective reality to one that questions the very nature of that reality, challenges the commonsense understanding and attempts to expose the processes through which it has been created. Although polarisation inevitably simplifies, may indeed as argued by McBarnet (1978) encourage false dichotomies, a number of commentaries have adopted such a strategy, for example the 'two sociologies', of social system and of social action, distinguished by Dawe (1970), and the analytic versus the commonsense or naive sociology identified by Manis (1972). In this chapter we will outline briefly the characteristics of the alternative perspectives, most particularly the one with which we intend to work, and then move to a more detailed exposition of the implications of our chosen perspective for the methodology of the study.

The positivist

The traditional acceptance of the natural attitude by the positivist derives from her concern to subject the social world to the scientific method, to treat in Durkheim's oft quoted directive 'social facts as things', and to derive through the logical procedures of hypothesis, observation, classification and generalisation (variable analysis) predictive laws and statements for social phenomena which will parallel those (pace Popper and Kuhn) developed for the physical world. Manis (1972) has listed five assumptions which are generally accepted by the positivist. These include the beliefs that all phenomena are essentially similar and natural (monism), and that all seemingly complex phenomena are reducible to much simpler units (elementarism or atomism), the recognition that elements tend to be linked together (mechanism or associationism), and that such linkages occur in fixed, determinate relationships (determinism), and the conviction that there is no inherent limit to knowledge (optimism), social theory trailing physical only because of a historical differential in impetus. Further, as a consequence of the rule of phenomenalism, an acceptance only of things actually experienced, and of the rule of nominalism, the world as a collection of individual observable facts without credence to abstract formulation, an essential difference is maintained between descriptive and evaluative or normative statements, the latter not accorded the status of knowledge. This rejection of evaluation renders positivist theorising unreflective: as with the natural world the actual process of sociological inquiry is considered independent of the social world under investigation, it has no particular significance as an element in the constitution of that social world. That positivist study may

therefore merely conceal unacknowledged dependence on commonsense understandings has been illustrated by for example Douglas' criticism (1967) of Durkheim's classic construction of suicide rates.

'Positivism cuts knowledge off from its roots in pre-reflective experience, in commonsense knowledge, and in the life and commitments of the theorist' (Spurling, 1977:85).

Positivist endeavour has tended to concentrate on two main activities, either the collection of a mass of empirical data in the hope that pattern or meaning will emerge or, at the other end of the scale, the construction of grand theories, ideal systems of society which satisfy the requirements of scientific logic and rationality. Inevitably its concern with determinism projects a consensus viewpoint, one which is considered impartial and which will discourage exploration of alternative realities. Particularly significant is the reliance on the assumption that observational categories are independent of theoretical categories, that observation can occur outside the limits of theoretical constructs and that the inductive method should be the basis for theories of human conduct.

Research in the positivist tradition seeks to relate specific outcomes to particular antecedents, to isolate statistical links between individual input and output factors. Data are objective facts rather than potentially constructed items, and the details of their formulation or assimilation merit little attention. The processes which occur in the course of transformation from input to output are likewise considered relatively unimportant, and the different interpretations which may be inherent in these processes for individuals are similarly ignored, a major weakness for the current research. Inevitably this is an

oversimplistic statement of the traditional position, and many practitioners would claim to have modified the traditional constraints. For a more elaborate judgement see for example Giddens (1974), followed in Giddens (1976) by his attempt at a reconciliation of the two extremes.

The phenomenologist

Whereas the positivist tradition considers the commonsense understanding to be unproblematic, for the phenomenologist the unexplored assumptions of the mundane world are the very essence of sociological theory, and indeed of methodology also, for the false dichotomy of the positivist between theory and method is removed. Reality is a social construction, the subjective creation of man, and the concern should be to show the social processes through which this subjective construction takes place. The previously objective reality is de-reified, it becomes the subject for study (topic) rather than a taken-for-granted accomplishment (resource).

'Phenomenological sociological analysis has attempted to show the necessity of addressing commonsense assumptions inherent in scientific accounts, establishing a methodology appropriate to the intentional, interpretive and meaningful social world and recognizing the interpretive and indexical nature of sociological work. Phenomenological sociology has therefore provided a theoretical de-reification of sociology and the social world' (Smart, 1976:5).

Again a summary of basic assumptions has been attempted by Manis (1972). Most importantly social activity is distinguished in its behaviour from physical objects (dualism), rendering inappropriate the attempts to subject such activity to the laws of the natural world. Human action

is recognised as intentional, an act of ascribing meaning (voluntarism), its form influenced by the motivations and intentions of the individual. Further he identifies the principles of indeterminacy, that the intentional quality of human action introduces innovative unpredictable forces in social relationships, holism, that social actions are meaningfully interrelated, and dynamism, that process, change and disorder are endemic in social relationships. In brief, from the positivist perspective the prime function is the description and explanation of the objective reality; for a phenomenological orientation the aim has to be the dissembling of an appearance of objective reality, a recognition of the social world as a continuing product of individual acts of interpretation, and an explication of the processes through which this social reality has been constituted. The phenomenologist aims in effect 'to get at the blood and guts of human existence' (Mayr1, 1973:27).

The philosophy which has generated an interest in a phenomenological sociology is both complex and liable to varying interpretation, with the inevitable danger that an attempt at summary will oversimplify and distort. As the aim of the present study is to present data informed by the directives of the perspective rather than to develop the theoretical paradigm we will not elaborate at any length on the details of the emergence and development of phenomenology from the principles of Husserl and of Schutz (1945; 1967; 1970). Explanation of central notions such as intersubjectivity and its enabling dimensions can be found in for example ed Psathas (1973); Smart (1976). It is sufficient to note that a key intention is to expose the elements of commonsense knowledge, the recipe of 'cookbook criteria' taken for granted

in traditional sociology through which the individual structures her world, defining relevancies and attributing relevancies to others.

'In any face-to-face encounter the actor brings to the relationship a stock of 'knowledge in hand', or 'commonsense understandings' in terms of which he typifies the other, is able to calculate the probable responses of the other to his actions, and to sustain communication with him ... In everyday social action, the agent thus possesses numerous recipes for responding to others ...' (Giddens, 1976:29-30).

The concern with the achievement of meaning has led those in the tradition of Schutz to exploration of the basic normative order, of the way in which meaning is assigned by members to events, to themselves and to others. How, it is asked,

'can norms be described or imputed to an environment of objects unless we make the actor's differential perception and interpretation of them, and his general definition of the situation the basic properties of the concept?' (Cicourel, 1964:202)

The distinction is made between basic and normative rules. Basic or interpretive rules (Cicourel, 1970) are those through which the individual acquires and sustains a sense of social structure. In providing ways of making sense of the world and of attributing meaning they are fundamental to the viability of a normative order and are the most valid object of sociological study. Normative or surface rules on the other hand are the 'commonsense' constructs, those that allow the individual to link her view of the world to others through shared social action and the assumption of consensus. The concern of McHugh (1968) with the 'definition of the situation' is a similar attempt to expose elements fundamental to the actor's attainment of meaning, the 'bedrock' of social order. Sacks (1963) has also explored these parameters of sociological description, concentrating in particular on the 'et cetera'

problem, the necessity to limit the infinite description.

The phenomenological imperative

Our major concern however must be with the implications of attempting a phenomenological perspective for our research. The phenomenological recognition of the constitution of the world by acts of interpretation applies equally both to the participant and to the observer and it is in this imperative that the implications of the approach for sociological analysis begin to be recognised. In studying actors' realities the observer must appreciate her own possibly very different system of relevancies and must attempt to establish congruity between her own account and the reality experienced by the individual. For the observer it is inevitable that her understanding of a social reality is second-hand: it is a second order construction of the first order constructs used by those actors involved in the situation, of constructs which themselves 'are not reality, but only agreed upon social fictions to overcome the basic uniqueness of Everyman's perspective' (McNall + Johnson, 1975:53). These second order constructs are an idealisation and formalisation of the experiences and meanings of the actors and the methodology of their construction is crucial to their validity. This methodology of observation, selection and interpretation must be exposed in order to evaluate how the observer moves from observations of the social world to conceptual description, how the social reality under investigation is linked to the resulting interpretations.

'A basic premise of phenomenological sociology is that the inseparability of theory and research is ensured by treating methodology, not as the manipulation of a set of given research techniques, as is the case in

conventional sociology, but as the processes by which a sociologist generates an abstract view of a situation' (Filmer et al, 1972:79).

Schutz presented three criteria for the construction and evaluation of these model constructs, the postulate of logical consistency, the postulate of subjective interpretation and the postulate of adequacy. The second of these criteria builds in the subjective meaning of any action to the individual actor while the criterion of adequacy attempts to ensure consistency between the second order constructs and those of everyday experience. To be 'adequate' an account should be meaningful for the actor herself and should permit of reconstruction, an injunction of considerable value in attempting a phenomenological methodology. It is satisfied by those (e.g. Bloor, 1978) who take their data back to their original respondents for validation. The postulate of adequacy can be of value also in a problem inherent in a phenomenological account, that of 'infinite regress' or solipsism, each successive observer attempting to make explicit the commonsense reasoning, and thereby generating an infinite number of accounts of any social scene. A cut-off point can be adopted at a level which ensures for the subject compatibility with the original account. Taken-for-granted meanings cannot of course ultimately be avoided, all explanations necessarily relying on tacit underlying assumptions, but the duty of the researcher must be to make explicit in her methodology her reliance upon such resources. Rather than using the techniques of positivist investigation which themselves impose an order and pattern on the realities being investigated, thereby creating meaning, the aim should be a methodology which can reproduce the subjects' meanings with minimum distortion.

Cicourel's work (1964) serves as a radical attack on the traditional measurement by fiat of the social scientist, the attempt to force social phenomena into arbitrary categories which bear minimal relationship to inherent meaning despite the avowal of equivalence. He demands that methodological structures be studied in their own right:

'unless the respondent's and researcher's decoding and encoding procedures are basic elements of the research enterprise, we cannot make sense of either the phenomenon being studied or the materials labelled findings' (Cicourel, 1968:3)

a directive echoed by Filmer et al

'A methodological prerequisite of phenomenological sociology is that the research develops ways of making his practical reasoning accountable and observable to the reader of his research projects; only in this way can the researcher show the links between his concepts and the social phenomena he claims to be investigating' (1972:110).

Cicourel demands additionally that the divergence in meaning structure between actor and researcher be recognised as problematic and as an essential dimension of the research program. One of the first objectives must be

'the formulation of a general model which permits the researcher to recognise the possible differences between how the scientist goes about assigning meanings to events and objects he studies and how the actor being studied accomplishes the same objectives' (1964:199).

An appreciation of the structuring nature of all research strategy, of the difficulties inherent in the essential dimension of objectification and verification does indeed render traditional study problematic.

Several of the methodological implications of the phenomenological perspective are summarised in the two basic imperatives stressed by

Schutz, the descriptive and the constitutive. Filmer et al (1972) suggest that these imperatives can be equated in sociological study with the ideas of concept clarification and concept generation. The first imperative, concept clarification requires that concepts which are characteristically vague and loose are more clearly defined with, in particular, the establishment of their empirical grounds in the life-world. Further, the development over time of the meaning of a concept, its 'biographically determined situation' is important if it is to be used at all explicitly.

'Unless we can establish how concepts had their foundations in, emerged from and relate to the prescientific life-world, their meanings will remain ambiguous both for observers and for those who read observers' interpretations' (Filmer et al, 1972:137).

The second imperative, concept generation, demands an explication of how the processes through which the second order concepts are constituted and built up - concept selection, application and operationalisation - relate to the human activities and meanings in the life-world to which they refer. In particular it is suggested that the clarification of the processes of concept generation in different research methodologies is an essential addition to the clarification of specific concepts. In essence therefore Schutz would assert that the everyday activities of the sociological observer, in particular concept generation, can only be understood by subjecting the activities themselves to phenomenological reduction.

Despite the prescriptions however, it remains true that a phenomenological sociology has in practice contributed very little by way of an active analysis. Translation of the imperative into action has

been rather more dilatory than the exposure of the inadequacies inherent in traditional techniques, an issue which will be resumed in a subsequent chapter. Meanwhile it may be timely to illustrate a few of the studies which have been executed in the phenomenological tradition. Various studies can be identified as responding to a phenomenological bias. These include the identification by Sudnow (1964) of typifications of 'normal crimes' with which the public defender works, routine categorisation which eases decision making, an examination by Zimmerman (1969) of the use of records in a welfare agency, the routines through which they acquire the status of official account, the comprehensive inquiry by Hogarth (1971) into the sentencing process and, possibly a truly reflexive study, Davis' exploration (1971) of what is sociologically interesting, namely only that which is alien to the routine, traditionally accepted concept. Only two studies will be expanded a little, that of suicide by Jacobs (1967) and given its relevance in the present context, Cicourel's perspective (1968) on juvenile justice.

Jacobs was interested in suicide notes as a source for the individual's own account of the experiences resulting in suicide, of the means by which the violation of trust is reconciled. The notes can be studied for their own validity, indicative of the deliberation process prior to the suicide act rather than subject to external theory, and a systematic explanation of suicide is therefore produced based on the accounts of the individual at the time of the act. Cicourel pursues his interest in how both the researcher and the actor come to know and categorise elements of knowledge with a study on the production of

delinquency as an ascribed status. The bureaucratic routines of police and probation organisations in two cities in California are studied to reveal the background rules and routine expectancies which provide a working framework for interpretation. Thus he exposes the use of community typifications in classifying areas of the city and the adoption of predictive categories in depicting the delinquent career, reducing the individual to a standard typology. Inevitably such structuring by commonsense assumptions merely induces a self-fulfilling prophecy. In the production of reports the officials are engaged in the 'creation or generation of history' (p.328), transforming to official status interactions and decisions originally conducted in an implicit police 'argot'. The interpretation of official accounts requires therefore, as Kitsuse + Cicourel have argued elsewhere (1963), an awareness of their constructed and selective nature.

'A researcher utilizing official materials cannot interpret them unless he possesses or invents a theory that includes how background expectancies render everyday activities recognisable and intelligible' (Cicourel, 1968:329).

A parallel study by Cicourel + Kitsuse (1963) has explored the creation and imposition of student identities by school authorities, tracing the consequences for the individual in career terms of this process of social definition.

'It is in the autonomy of the arbitrary, day-to-day features of rationality that courts, police, social workers, teachers, counsellors, give the world the statistics of crime, delinquency, success and failure' (Gleeson + Erben, 1976:478).

Throughout his work Cicourel acknowledges his desire to respond to the central challenge of Schutz; to investigate the perspectives of the actors who through their activities of definition and interpretation are

responsible for social organisation whatever the setting.

A critical appraisal

We must keep in mind that we are looking to the phenomenological perspective for methodological directives rather than with a view to developing new theory. Nonetheless it would seem necessary, before we proceed, to acknowledge that the approach we have elaborated is not of course without its critics. It has been variously lampooned for its 'dense and elephantine formulations' (Gouldner, 1971:394), condemned as 'crudely empiricist' (Taylor et al, 1973:206), dismissed as 'mindless relativism' (Taylor et al, 1975:44), and ambiguously typified for its 'charismatic leaders, possessed followers, and a language which only insiders pretend to understand' (Horton, 1971:137). One vein of criticism revolves around the actual status of phenomenology, to what extent it is indeed a 'paradigm shift', a 'revolution in sociology' (Goldthorpe, 1973) or indeed to what extent a phenomenological sociology is a possibility (Pivcevic, 1972).

A somewhat different critical stance has been adopted by Gidlow (1972), prefacing a variety of methodological criticisms of the approach. Gidlow's complaint is that the phenomenological sociologies fail on the 'criterion of practicality': they use little more than a glorified participant observation technique and therefore despite the 'sociological mysticism' (p.403), 'the flag-waving and trumpet-blowing' (p.404), depend again on imputation and subjective assessment.

'By relying on participant observation, the researcher commonly has to impute background-expectancies and commonsense constructs and is not placed in a position in which these variables isolate themselves from the social context' (p.400).

Though Cicourel (1968) claims to recognise the problematic nature of the researcher's interpretation, Gidlow regards his attempts at explicating documentary sources and signalling tacit knowledge as less than adequate, with alternative interpretations often appearing equally plausible, and with his own prescription of the construction of a model of the actor to guide observation not adhered to.

By far the most relevant attack on the phenomenological tradition however is that it fails to take account of the power dimension of social existence, tending in its concentration on the formal structures of consciousness to neglect the dialectical nature of social reality. Although concerned with contextual meaning it does not recognise the constraints of wider political process: such realities are 'bracketed off' and class, deviance or alienation for example are reduced to second order constructs.

'Phenomenological sociology suffers from the same affliction which plagues its philosophical forebearer. By commencing with the structure of individual consciousness, it is forced to bypass any exterior and therefore social reality' (Mayrl, 1973:15).

The result is to inhibit any movement for social change, to derive a study which is inherently conservative, concerned not with human action but with the description of language and consciousness.

'The political implications of these theories are conservative in the sense that they imply men are free to develop their own reality, or, if they don't, it's only because they have not overcome the normative restrictions that are maintained by mutual illusion' (McNall + Johnson, 1975:49).

'Phenomenology looks at the prison camp and searches for the meaning of the 'prison' rather than for its alternative; and it searches for the meaning in terms of individual definitions rather than in terms of a political explanation of the necessity to imprison' (Taylor et al, 1973:279).

Two of the most stringent critics from this political perspective are Horton (1971) and Gleeson + Erben (1976). Horton concludes that the appeal of phenomenology is false: it is 'de-reification without politics' (p.187) and may achieve, rather than a purer science, only a more profound reification than that which it sought to destroy.

'The process of phenomenological reduction which 'brackets off', 'suspends belief in' or makes 'anthropologically strange' strategic interaction from its situated contexts may well isolate and freeze those processes of interaction in terms of their socio-political contexts in much the same way as functionalism freezes institutions in its attempt to explain the nature of interdependent institutionalized relationships' (Gleeson + Erben, 1976:475-6).

In making a 'fetish of what is 'left out'' (p.479) the phenomenologist denies the important dynamic of causality. Ultimately the research becomes myopic.

Thio (1974) extends this particular vein of criticism in his attack on the class bias of the phenomenological perspective on deviance, its tacit support for the power elite. The researcher, often a participant observer, is directed towards the experiences of the powerless rather than the powerful, especially in the case of deviance, thereby co-operating in a political definition of social reality. Moreover, the phenomenologist overemphasises the exercise of free will, invoking a greater responsibility of the powerless for their own deviance, absolving the elite from guilt and minimising the presence of control or oppression. The status quo is maintained.

This structural critique led both to rebuttal, for example from Wagner (1973) claiming a potential within the theory and to attempts to create a phenomenological Marxism, accommodating within a

phenomenological framework issues and topics central to a Marxian analysis (Piccone, 1971; Dallmayr, 1973; Smart, 1976). This debate will not be followed here however for it could only be guilty of gloss. To find valid criticism of a perspective does not however necessarily undermine its value.

'To be critical of the neglect of power relations in the phenomenological approach does not reduce in significance the revelation of the study of interpretive procedures as vital to sociology' (Smart, 1976:95).

It may be that the insights which are gained are of sufficient merit to counterbalance the omissions, that one agrees to proceed, not with total commitment, but on the condition that the exercise is heuristic, a desire to ascertain the legitimate boundaries to which a framework can be stretched.

The utility of the perspective

In assessing the merit of phenomenology for the present study it was immediately apparent that at the descriptive level there was an affinity. An approach which demands recognition of the subjective viewpoint of individuals, which grants validity to the existence of multiple realities is obviously appropriate to a concern for the alternative consumer perspective. The descriptive imperative should therefore be fairly readily satisfied. Additionally the ambiguity which bedevils the concepts of juvenile justice makes it an appropriate candidate for a scheme located in individual interpretation. But the implications of adopting any perspective are twofold. It may be appropriate, as at this descriptive level, because of the very nature of the study. It may also however be prescriptive for the study: it may demand that a

particular directive be pursued and that appropriate investigative techniques be adopted. This would appear to be the status of the constitutive imperative, the demand that it be shown how the phenomenon is built up. The two dimensions would appear in turn to accord with the distinction realised by Phillipson + Roche (1976) between mundane sociology and the constitutive phenomenology of the natural attitude, the latter a revelation of the rules followed in constructing the individual reactions and meanings. It is at this level that compromise is necessary, conventional sociology has to be modified but the constitutive attitude cannot be fully attained.

'In the absence of clarification on the more formal level, mundane sociology can respect the principle of intentionality, and of the meaningfulness of actors' thoughts' (Phillipson + Roche, 1976:65).

The additional prescriptive implications which refer to methodology and which have already been outlined from Cicourel (1964; 1968) should not pose such extreme problems. Interpretation must be explicit rather than implicit and must detail the taken-for-granted assumptions on which it is based; the grounded meaning of terminology should be exposed. Additionally the three postulates espoused by Schutz, of logical consistency, of subjective interpretation, and of adequacy, have been detailed above.

In terms of our own analysis, perhaps the potentially most valuable directives to be gained from phenomenology are those of concept clarification and of concept generation. We highlighted at Chapter One the multiplicity of views that surround discussion of juvenile justice and it is therefore appropriate that we look sympathetically at a framework which demands that such confusion be exposed and clarified,

subject to analysis which roots out (and gives validity to) the interpretation afforded by each individual. The social constructs of the phenomenologist, unlike the objective attributes argued by the positivist, need to have the meaning which is being accorded to them isolated, their subjective basis explored. Moreover, starting with raw data, there is the opportunity for concept generation, a process of constant comparison and grouping of the data, excluding and refining as the concepts emerge and strengthen. Rather than fit the data to pre-existing structures the framework demands that the researcher work to identify the concepts which the respondents themselves are articulating.

We have posed in this section the somewhat artificial dichotomy of the positions adopted by the positivist and the phenomenologist. Despite the criticisms of the latter perspective, we have nevertheless found appropriate its recognition of the subjectively determined nature of reality, and have distilled from the framework a number of suggestions and prescriptions which would appear to be of value for our own research. It should be reiterated however that the adoption of strands of phenomenological theory is primarily a heuristic exercise, one whose validity will be determined during the accomplishment of the research, the process to which we now turn.

METHOD

The methodological directives which stem from a phenomenological approach have already been outlined. In summary they demand a recognition of the fundamental social construction of meaning and an acknowledgement by the researcher that she also irrevocably structures individual acts of interpretation. Most specifically, theory and data should not be discrete entities but the one a realisation of the other, with the process of construction systematically exposed and delineated rather than accepted as commonsense assumption. For the phenomenologist methodology is a term for the process through which an interpretation of the social world is generated. In the light of such prescription the inadequacy of many of the traditional research methods can be underlined. They often carry implicit theories and assumptions about the phenomenon under study, theories which pass unquestioned and often unrecognised. Moreover many of the techniques of the positivist investigation force an order or pattern on the reality under investigation which amounts to measurement by fiat. But despite the alacrity with which they castigate the inadequacies of more conventional strategies those who subscribe to phenomenological theory have been less ready to provide a specific phenomenological method. Such a method remains elusive, the first hint that the grand promises of phenomenological theory may have in their application to be translated into a rather more mundane reality. There are no strategies whereby the substance can be delivered free from the interference of interpretation. Specifically it would appear that the structuring nature inherent in any research strategy has to be accepted. What can be attempted however is to manipulate techniques such that they conform more consistently to one's declared aims, exposing taken-for-

granted meaning and rendering practical reasoning accountable.

The methodological directive

Primarily the concern of the methodological strategy is to avoid predefinition, to confront empirical reality from the perspective of those being studied, in this case the parents, and to adopt a framework which reflects their understanding and perceptions rather than the bias of the researcher. The emphasis is not therefore upon the testing of predetermined hypotheses or on the soliciting of carefully structured and coded questionnaires. More appropriate are flexible techniques which can be moulded most closely to the parental perspective, which can respond to the directions and issues which parents wish to pursue, and which can reproduce with minimum distortion the meanings attributed by parents themselves.

'The observer must approach his subject with no structured expectations of how an object should be described ... He must have no hypotheses to direct him as to what he should find in his investigation... He admits only that which is immediately experienced as he concentrates on the object of his inquiry' (Bruyn, 1966:272).

The danger of the preconceived hypothesis is that it dominates the researcher's attention, directing her study even to the point of structuring into reality the very evidence which she seeks. The typical precoded questionnaire of the social survey similarly reflects a researcher dominated reality. She allows a limited range of options and assumes or imposes correspondence in understanding between the language of her definitions and its interpretation by the researched rather than attempting to discover how they themselves define and classify.

'Measurement by fiat is not a substitute for examining and reexamining the structure of our theories so that our observations, descriptions, and measures of the properties of social objects and events have a literal correspondence with what we believe to be the structure of social reality' (Cicourel, 1964:33).

The advantage of the less structured technique is that it can adapt and develop as the study proceeds, allowing in the absence of rigid boundaries for the discovery of new phenomena or the pursuit of initially unsuspected theories, as in the popular reflection of Whyte (1943)

'As I sat and listened, I learned the answers to questions that I would not even have had the sense to ask if I had been getting my information solely on an interviewing basis' (p.303).

The methodological choice

Research study is constrained however by practicality, and attractive as may be for example the unobtrusive measures of Webb et al's non reactive research (1966) or the near total involvement of for example Parker (1974) their application is not always appropriate or indeed feasible. Certainly in the present context the choice of research technique appeared limited: the eventual decision to observe and to interview seemed dictated more by necessity than by choice. The desire to elicit parental attitudes seemed to be satisfied only by direct interview and the decision to select parents who had attended a specific hearing suggested observation at that hearing in order to provide a focus. Sharing in the respondents' subjective experiences through direct participation was hardly attainable, while more discrete attitude measurement did not appear realistic. Highly structured attitude scaling would of course have been a possibility but hardly one consistent with the framework

outlined. It was the details therefore of the chosen techniques rather than the choice itself which preoccupied the preparation.

The interview

The aim of the interview in the present study is to collect data which reflects the meaning of the situation for those who are caught within it. It is evident that this cannot be achieved through the use of fixed questionnaires with their assumptions that researcher's definitions correspond to those of respondent, that these are constant across all respondents, and that the preoccupations of the researcher are more relevant than those of the respondent. The result may be merely a re-creation of the researcher's own prejudices, obligingly completed by an innocent population without regard to the realities of their own constructions. The danger is highlighted by Casburn (1979)

'My tentative conclusions rest precariously on the assumption of congruence between my understanding of the courtroom scenario and the meaning given to each session by the actors themselves, particularly those of girls up before the court: for if subjects and researcher operate with unshared rationales, then this is merely a record of my own illusion' (p.70).

The initiative must pass from researcher to respondent, listening to the issues which concern her and attempting to understand the meanings through which she operates. To this end the interview must be as unstructured as possible, led by the respondent to recall features which were of interest to her, and attempting wherever possible to obtain data uncontaminated by the researcher's own biases. From his study in Argentina Cicourel (1967) has suggested guidelines for such an approach. For example rather than assuming familiarity with the intent of a question, it is used as a probe to explore the respondent's perceptions, a strategy recommended also by

Becker (1954) who suggests the tactic of playing naive or sceptical. Cicourel further suggests that if the context of each interview negotiation is recorded - the general atmosphere, any particular problems, communication - it will be easier to interpret the respondent's material. This problem of interpretation is central and must be adequately understood if distortion is to be minimised.

'Quotations from interviews require a theory of social interaction if the material is to have more than anecdotal or illustrative significance. The quotations cannot 'speak for themselves', but require a commitment by the researcher as to the theoretical ideas guiding their interpretation and generation from the subjects' (Cicourel, 1967:65).

'The researcher cannot justify his questions (open or fixed choice in construct) unless he is prepared to indicate how the respondent's answers are managed products negotiated with the interviewer over the course of the interview' (ibid p.69).

At a theoretical level the issue is confronted in a study by Hyman (1954) who subjects the interview itself to phenomenological analysis.

Further guidelines for non-directive interviewing are presented by Merton, Fiske + Kendall (1956) who have discussed in detail the merits of the focused interview. These will not be reproduced in detail but include the necessity of extending the range of the interview by listening for cues from the respondent, of giving maximum specificity and depth by encouraging the respondent to detail her account, and of eliciting through details of her prior attitudes and values the personal context of the situation for each respondent. Discussion of the focused interview, centring as it does around a situation experienced in common by all the respondents, leads fairly neatly to the role perceived for observation in the present study. The interview style

that is being advocated does not of course totally conquer the problems of reproducing a subjective perception. The respondent may choose to withhold her genuine reactions or may deliberately distort what she presents to the researcher. There is the impossibility of comprehending and encompassing the uniqueness of the individual who inevitably presents only a 'partial self' (Manning, 1967), or, as acknowledged by Becker + Geer (1957), problems of understanding which may remain latent

'we often do not understand that we do not understand
and are thus likely to make errors in interpreting
what is said to us' (p.29).

Nonetheless the approach does at least recognise and attempt to confront the inherent problems rather than simply side-stepping them through forced measurement.

The observation

The methodology of observation, most specifically the role of the participant observer, has been extensively discussed (McCall + Simmons, 1969; Schwartz + Merten, 1971; Bruyn, 1966). The observer's role in the selection and filtering of phenomena as 'reality' is transformed into data is crucial: she must reduce preconception to a minimum and approach a situation totally open to whatever may impress. As Webb et al (1966) demonstrate there will always remain some distortion, perhaps a bias to 'exotic' data or an inability to maintain a constant flow of attention - 'people are low-fidelity observational instruments' (p.142).

Nevertheless supplementing the interview by observation at the hearing can serve two main purposes. Firstly to be present at the hearing is the closest that can be approached to an attempt at direct participation,

a desire 'to catch the process as it occurs in the experience of those he studies' (Bruyn, 1966:13). And secondly it allows the researcher an opportunity for validation of the material gathered during interview, providing an independent account of the process which the parents have experienced.

'There is no question of comparing the sociologist's analysis with the member's analysis. If members could do sociological work there would be no point in sociologists doing it: collectivity members can only do sociological work if they are marginal to the collectivity' (Bloor, 1978:548).

Nonetheless this question of validity and of objectivity is in many ways problematic: primacy is given to the parents' subjective experiences yet these have to be structured within an independent framework provided by the researcher who by her very role tends to assume some objective status. And yet as has already been discussed the researcher is no less dependent on commonsense reasoning than her subjects. Becker + Geer (1957) speak of the 'distorting lenses' of the interview respondent, differences in perception leading to differential reporting. Again our concern is to give validity to such 'distortion', to accept it as the respondent's truth. Nevertheless without observation there could be no discrimination between the accounts of different respondents: any relation between attitude and event would be based on mere inference.

In their comparison of participant observation and interviewing, Becker + Geer highlight further how observation can clarify and supplement the data gathered through interview. Observing the discussion in context allows the researcher to identify points at which the respondent's interpretation may differ from her own and exposes items which the respondent may have omitted to mention, whether through

reluctance, perceived unimportance or failure to comprehend. The corresponding image from the other side is presented by McCall + Simmons (1969) who argue for the necessity of the interview to clarify observation. The researcher's observation of the participant's state represents her own subjective interpretation: only through discussion with the respondent herself can the degree of correspondence be assessed. This use of interlocking techniques, one compensating for the weakness of the other, goes some way towards satisfying the criteria of triangulation demanded both by Denzin (1970) and by Webb et al (1966) as a more realistic research strategy. Further details of the two selected techniques are however probably best presented in the context of the study itself.

The research strategy

Initially the idea had been to elicit the attitudes of both parents and children towards the children's hearings as a system of juvenile justice, selecting families who had themselves been recently referred to a hearing. A small study had been conducted in Fife (Petch, 1977) and this can perhaps be considered as a pre-pilot. Fairly rapidly the decision was taken to concentrate on parents alone, partly to reduce the study to manageable proportions but also because experience suggested that accurate reproduction of the child's viewpoint could be particularly difficult, demanding an approach very different to that which could be used with parents. One-off interviewing for example gives little opportunity to develop rapport and while a group setting - for example a residential school or youth club - might lead to greater relaxation there is then the danger of influence by group norms and pressures. Having decided to concentrate on parents only and to work within a framework of current

referrals, a logic for selection had to be developed. Should any parent who had experienced a hearing be eligible for the study, or should there be some form of stratification which limited the selection to specific groups. Discriminating variables included the reason for referral to the panel, the number of times the parents had attended a panel, whether with one child or several, attendance for an initial selection or for a review, and the nature of the final disposal. On grounds of both clarity and comparability, and given the exploratory nature of the study, it seemed wise to restrict the investigation to a specific type of referral. Three of the conditions laid down in S32(2) of the Social Work (Scotland) Act 1968 appeared most appropriate, viz,

- (a) beyond the control of his parent
- (f) failed to attend school regularly without reasonable excuse
- (g) has committed an offence,

these being also the most common grounds for referral. In 1979, the year of the study, 80% of all the referrals in Scotland (total 26,011) were on offence grounds while 10% were for non-attendance at school. It was fairly readily decided to select the offence based category, referrals of this nature highlighting most sharply the potential conflicts in the traditional treatment-punishment dichotomy, which have been discussed in Chapter One and therefore addressing central principles of justice philosophy.

Referrals in category (a) were rejected as including particularly complicating factors in parents' attitudes and assessments. For example if they themselves had deemed the child beyond their control, reaction to

a discharge would likely be very different from that of parents reluctant to accept the charge that their child was beyond control. It was felt that emotive reactions of this type were likely to produce a situation-specific response, obscuring more general attitudes towards the hearing system itself. This is not to say that such reactions may not be evident in category (g), but that the nature of this referral may in itself be somewhat less emotive. Referrals in category (f), although a substantial body of the panel's work, are complicated through often being confused with other panels of the education authority, and by raising questions of the differing priorities attached to education. This is not to deny however the often close association between referrals in categories (f) and (g), nor to question the value of studies which might concentrate on for example the attitudes of those who appeal (though small numbers could make this difficult), on those who have received a specific disposal, or on cases where perhaps joint referrals have been given different disposals. Merely it was felt that with as yet no other studies in this area it was important to provide a generalised base from the more common referrals before proceeding to specific minorities. Certainly since the study has been completed social workers in particular have expressed considerable interest in soliciting the opinions of parents involved with hearings because of their own neglect or abuse of children, an area recently addressed in England by Thoburn (1980).

Selection by category of referral is complicated however if parents are interviewed who have attended more than one hearing, be it for the same child or for another, it not being practicable to take account of

more than the current referral. Yet the number of times parents had been to a hearing was thought to be possibly an important variable, multiple attendances allowing for a variety of both conduct and panel members. Moreover increased familiarity could be associated with greater relaxation or possibly complacency, or conversely could lead to increased apprehension. It was agreed therefore that both first and subsequent referrals would be included in the study, attendances for a different child obviously contributing to the overall experience. It was doubtful in any case whether it would have been possible to distinguish by referral history during the selection process. It was decided to exclude cases brought up for review only, the emphasis being on the immediacy of the primary contact over the initial referral. Reviews which included new grounds of referral (provided of course they were for an offence) and reviews precipitated by such grounds were however included. Further variables arise from the location of the hearing itself, an influence both through physical characteristics of the room or building and through the differing strategies which are employed both for combining members to make up a panel and for organising the subsequent discussion with the family.

Initially a District in the Central Belt of Scotland was selected as the study area, primarily for reasons of accessibility. At the time of the research, 1978-1979, this was a District of approximately 130,000 population, an area of primarily small towns with a declining industrial base. Preliminary consultation with the Reporter for the District had suggested that on the basis of the previous year's figures the hearings served by two of the three social work area offices within the District

would provide sufficient numbers for the study. It soon became apparent however that there had been a considerable reduction in the number of hearings being held and with only one or two relevant hearings a fortnight the study was extended, firstly through the third social work office to provide complete coverage of that particular District and secondly through the inclusion of hearings from a neighbouring Region. Again, initially only hearings from one District in this Region were included, all held at a single centre in the major town and served by two social work area offices, but as it became apparent that numbers had again to be increased the catchment was further extended to cover the two remaining districts within this Region, each with its own hearing centre.

The route by which I was notified of relevant hearings in the different areas led in practice to an increased reliance on those hearings occurring in the Region. Access to the first District had been gained only after protracted negotiation and then only, due to the non co-operation of the Regional Reporter, through the social work departments. The onus was on personnel within each area office to inform me when relevant hearings were due to occur and not surprisingly this proved less than satisfactory. In addition a system whereby the date for a hearing was fixed prior to reports being prepared meant that very often dates were revised without my being notified. In the Region by contrast negotiations were swift and productive, the Regional Reporter's department taking the initiative in notifying me whenever relevant hearings had been arranged. This pattern operated successfully throughout the duration of the study.

Perhaps in the interests of clarity a word should be said on differing organisational aspects of the two areas. In the Region of which the first District is a part, the Reporter's function is decentralised, a separate office serving the specific District. At the time of the study hearings were held regularly at three main locations within the District, with two separate buildings in one of these locations and occasional hearings at a fourth location. Panel members in general circulate between the different centres, although individuals may for convenience express a preference for a particular location. In the Region which provided the majority of the referrals the Reporter's Office is based in a single centre serving all three districts; each district however has its own individual panel members. In appearance and general atmosphere the three hearing locations of the Region would appear to compare favourably with those of the single District. In the largest town for example hearings are held in a pleasant house adjacent to but independent from the district offices; in a second town the centre is next door to the social work offices. In one of the District towns by contrast hearings are held in a somewhat barren and draughty meeting hall and at another of the centres the discussion in hearings competes with the noise of neighbouring playgroup activities. At all three locations in the Region a part-time usher is employed to assist at the hearings whereas in the District the Reporter himself comes out and directs the family into the hearing. Although it is not an object of this study to be comparative between the two areas - numbers alone would preclude this - factors of this nature should be borne in mind through the discussion.

The pilot stage

Administrative details having been completed, a pilot study was initiated. The aim at this stage was to develop a satisfactory observation schedule for use at the hearings and to ascertain whether the initial idea of a relatively unstructured interview would prove feasible. In the event the pilot developed into two stages, the first of twelve hearings, the second a further eight. Organisationally, throughout the locations, an ideal system evolved whereby I would approach the family in the waiting room prior to the hearing, explain who I was and what I was doing and ask their permission both to observe at their hearing and subsequently to visit them in their own home. In the Region I knew nothing of the family save that the child was referred on offence grounds; in the District, the minority of cases, I had also been given the child's name and address. By the later stages of the pilot I was also arranging the time of my visit to the home at this point, rather than trying to do it as the family left the hearing, often hurrying for transport or possibly disturbed by the outcome of the hearing. Various arrangements for this initial contact had been discussed during meetings with panel members and social workers in the District, there being concern that it was a sensitive negotiation. Panel members had requested that I should make my purpose known to the family before the hearing in the hope that any pressure to comply with the request if it was first broached by the chairman in the hearing would be reduced. Social workers at one of the offices had asked that if the family was obviously distressed after the hearing they should not be approached, a limitation subsequently removed by the making of arrangements before the hearing.

Social workers from one of the other offices would themselves ask the parents for their participation and only notify me of the referral if they were agreeable.

In speaking to the parents and seeking their co-operation I obviously sought to stress that I was conducting independent research and was in no way involved with the children's panels or with the social work department. I hoped to allay any sense of coercion that might be felt by parents, particularly in being approached soon after they had entered a perhaps unfamiliar environment where the instinct might be to comply. As one parent commented,

'That's when you came to me I was taken a wee bit aback because I thought oh what's this, first time, and no I hadn't a clue about anything'.

Ideally the parent's right of refusal would be reiterated by the chairperson at the beginning of the hearing but at times this explanation was somewhat perfunctory. The strongest argument however against reluctant participation was that interviews with parents were to be in their own homes a few days subsequent to the hearing when if reflection had changed their mind they could refuse or choose to be away.

I likewise attempted to dissociate myself from official hearing procedure by only entering the hearing with the family itself, not being present at panel deliberations prior to or following the hearing. Further I did not seek access to the social work, school or other reports and did not discuss the case in any detail with the social worker present, though on occasion I inevitably received opinions expressed 'off the record' by social workers or more rarely panel members. There is of course the constant research unknown of any possible influence I might

have had on the hearing proceedings. Did the panel members, Reporter or social worker proceed differently because of my presence and if so was this influence likely to decrease over time with familiarity. Obviously any assessment can be only speculative, although it is interesting to ponder possible influences, for example my location in the room or the amount of note taking I was seen to do, or alternatively selective influence according to the varying experience of panel members. Perhaps a more measurable influence is any change in the preparation of families for the hearing by the social workers once it is known that they are subsequently interviewed. Certainly I witnessed on occasion a hasty rundown being given to the parents on what was to happen but this may have been standard practice and no systematic study of these factors was attempted.

Observation

Before attending my first hearing I had made some preliminary attempts to draw up an observation schedule which would satisfactorily fulfil my requirements. My prime aim was to assess parental participation in the hearing - did parents participate, if so about what and at whose instigation. It became apparent however that although my main concern was to record what happened from the parental perspective it was impossible to ignore the other participants, a partial record proving somewhat meaningless. At an extreme there might be no parental participation, yet what occurs during the hearing is still very important. The observation aimed therefore to be total rather than partial.

The first observation schedule which was considered classified only

by the subject matter of discussion and by initiator, but before pilot this was revised to introduce some element of what I have termed 'process', for example 'establishing attitudes', 'expressing opinions', again further classified within each by subject and by initiator. The first hearing was entered with a rough schedule of this type but it was rapidly discarded in favour of listing as completely as possible a sequential analysis of the hearing in terms of both process and content, for example - Panel: function, we're here to help; Father: opinion on offence; Mother: expresses problems with family upbringing. This inductive record was continued with increasing assurance for the first seven hearings and then an attempt was made to draw up a more workable schedule based on this experience. The schedule was then used for the remaining hearings of this first stage of the pilot, this coinciding with the shift to a majority of hearings in the Region. A copy of the schedule is reproduced as Appendix 1. Each statement is entered under one of the categories and labelled as to who addresses whom and whether this induces a response. For example P - M/F (FA) would indicate that the panel addressed a statement to the mother and father with the father replying.

Several details of the schedule can be elaborated. Although I refer above to a 'statement' the unit for analysis can be tricky. In general the concern is with the substance of an exchange such that a 'statement' might vary from a single question to a several minute monologue. It is not therefore the fine unit analysis of for example Bales (1950a; 1950b) and care must be taken not to equate directly frequency of interaction with length. More routinely there can be

difficulty in for example distinguishing 'facts' from 'opinion', interpreting for example a child's account of school, in isolating for example 'lecturing' from 'threatening', or in separating the 'giving of information' on say a disposal from the 'expression of an opinion'. Where a particularly interesting statement was made it was often noted in full.

A number of comments may be made on this observation schedule. It is a fairly crude device which attempts some compromise between the impossibility of a verbatim record and the dangers of an overstructured classification. The format to which it evolved represents the most workable solution to a fairly intractable problem. The work in this area by Bales (1950b) operated with a twelve fold classification of behaviour but as noted above was concerned with a much finer grain of analysis. Byrne + Long (1976) decided that Bales' system was not sufficiently discriminatory for an examination of patient-doctor consultation and substituted a complex fifty-five point diagnosis. They identified the division for analysis as a 'unit of sense'. Adler et al (1975) report on their experience of observing at supplementary benefit and national insurance tribunals, attempting through the use of two observers at each tribunal to 'reconstruct the dialogue'. Observational analysis of perhaps a more routine nature is demonstrated in the work of Fears (1977), important in the present context because of its subject matter, the quality of communication found in the English juvenile court. Working against a background of Bernstein's restricted and elaborated codes, shorthand transcripts of the court proceedings were computer analysed to reveal both the extent and the complexity of verbal

participation by each party. Linguistic analysis of this type is of course dependent on the complete transcript; it underlines the disparities in absolute participation but offers little on the content or style of this participation. Similarly the preoccupation of for example Atkinson (in ed. Psathas, 1979) with the details of conversational achievement in the courtroom concentrates on detailed analysis of specific utterances.

This absence of data on what I term the 'style' of the hearing was also felt to be a failing in my own research. There will inevitably be a loss during any classification process, a pre-determined structure being forced onto the free flow of exchanges. Nevertheless after twelve hearings the observation schedule was reviewed and it was felt that some attempt should be made to capture aspects of this elusive 'style', the general attitudes adopted by the different participants and the nature of their exchanges, for example threatening or reassuring. A second pilot therefore concentrated on observing these stylistic aspects, developing and revising an appropriate format. Various strategies were debated, including the recording of mood at five minute intervals or the incorporation of some attitudinal measures into the schedule already devised. The approach finally adopted is recorded in the second schedule reproduced as Appendix 2, the form to be completed as soon as possible after each hearing. For all participants there is an attempt to assess the extent to which various styles were used with room for summary of the prevailing attitude(s). Again the approach was inductive, a response to the situations which were presenting in the hearings themselves. Several features, particularly those on the level

of participation, partially duplicate those recorded during the hearing and allow for an element of triangulation. Again this schedule is no major methodological discovery, merely an approximation to what is practical in attempting to record the distinctive elements of each hearing.

Interview

In comparison with the schedules for observation the interview with the parents presented fewer problems. The ideas already outlined pointed to the main form that the interview should take: relatively unstructured, guided as much as possible by the parents' initiative, tape-recorded in order to capture as full and as faithful a record as possible of the parental experiences. It is interesting nonetheless in comparing a transcript with the original recording how much of nuance and interpretation is lost during the transcription. Discussion of the use of the tape-recorder is a perennial topic in the research literature (e.g. Bucher et al, 1956a, 1956b; ed. Burgess, 1982). Its use was considered essential given the exploratory and inductive nature of the study and in accord with the majority of writers I found its use during the interview relatively unproblematic. The problems that are cited, particularly those of respondent resistance, tend to be from those who have not actually experimented in the field. Its presence was accepted by all but one respondent, and the majority very soon seemed to forget its existence, an observation confirmed in a number of instances when in general conversation after the interview I specifically asked about its effect. Certainly a tape-recorder makes the management of the interview much easier for the researcher; there is not the panic of

accurately writing down everything that is being said and one is free to listen, to develop rapport and to respond more searchingly to what is being said. The interviewee in turn is not inhibited by the necessity of modifying the pace and length of her replies to the capacity of manual recording, the interview assuming a more conversational form. The use of a tape-recorder must be considered essential in a study such as this where one is specifically concerned to gain the fullest account from the respondent. Bucher et al (1956a) specify the inadequacies of the written alternative with up to three quarters of the interaction lost and the introduction of bias through the crucial but unknown exercise of selectivity. In addition the availability of a verbatim transcript, and even more immediately the actual recording, allows for a critical examination of the likely influence of interviewer effects on the data. Bucher et al suggest that tape-recording has a particularly important role to play in unstructured or non-directive interviewing.

'The more subtle the shades and nuances of meaning required for the analysis, the more difficult it is for interviewers adequately to capture it on paper. Recording frees the interviewer from the responsibility of making an analysis of the interview data on the spot' (p.361).

The disadvantage of tape-recording lies of course in the lengthy process of transcription and although some help was sought initially the majority of the tapes were transcribed by the researcher. This may well acquaint the researcher further with the material but whether in the most efficient manner is debateable. Bucher et al (1956b) discuss in some detail the problems of transcription, 'an exacting and tiresome task' (p.436), highlighting the errors that are most likely to occur.

The interview with the parents was generally arranged for a date two to seven days after the hearing (average 4.6 days, maximum 20 days, mode 2 days). Arguments can be advanced both for recording the immediate responses in the moments after the hearing is finished or for postponing the discussion until perhaps a more considered opinion is presented. On balance, given that it was not merely the substance of the hearing but the more general philosophy that was being discussed it was preferred to interview the parents in the comfort of their own homes and where any inhibition of time or confidentiality through being at the hearing centre would be eliminated. In addition, as stressed earlier, it was hoped that this would clarify my role as unrelated to the hearing procedure itself.

The validity of the 'one-off' interview is again an area which has received considerable attention in the research literature. At one extreme Greer (1969) argues that it is

'morally indefensible for a 'stranger' rapidly to extract often very personal information, using subtle and (to the respondent) unknown techniques, to withdraw never to be seen or heard of again' (p.165).

On the other hand an argument can be put forward that intervention, particularly when of no immediate benefit to the respondent, should be kept to a minimum. At one stage the possibility of interviewing parents both before and after the hearing was explored but difficulties of obtaining access precluded such a strategy. The influence of the initial interview upon performance at the hearing would also have been problematic. Follow up interviews, certainly where there was to be an active supervision requirement, would have been a possibility but would have somewhat radically changed the focus of the study. Probably the

greatest concern is that the single interview captures only the static attitudes of a moment, and indeed could be fairly readily managed by those who wished to be evasive. Whilst accepting the validity of these fears they were felt to be of less importance in the present study: the subject under scrutiny was felt to be fairly robust and the focus on the hearing provided an acceptable explanation for a one-off intervention.

The presentation of self is of course crucial in the role of interviewer and assessment of one's own performance can only be tentative. Nonetheless, in the majority of cases an adequate level of rapport appeared to be created, and the extent to which respondents felt able to criticise the various agencies involved suggested that my own independence had been accepted. Indeed one father was explicit about his motive for participating,

'When that first one (a member of the Glasgow study) asked me if she could come in and then you asked me, that's why I agreed so readily, I don't know if it will help any or not but I agree with anything that would help to change these panels. It's too late for us but for other people ...'

I attempted to present to parents as a non-threatening outsider, eager to share and to understand their perspective, handicapped a little by my lack of direct experience of the situation in which they found themselves. The fact that a number of parents spontaneously disclosed to me information which they had kept from the panel - that their child was back on glue, that the child had played truant - suggests that I was accorded a measure of trust, while other parents indicated that they found communication relatively easy,

'I think I would ask for S (social worker) if R ever got into trouble again, because it's just like talking to you . I can say anything to her and she says anything back to me ...'

The opportunity to discuss their situation was positively welcomed by a number of parents, often unfortunately those who had found their experiences with social workers less than helpful.

'I mean he (social worker) has never really come in and sat and discussed anything. You are the first person ... You are really the only person that has ever come and spoken it over'.

In several instances a process of relaxation could be detected over the course of the interview as the respondents felt their way to a more open expression of preference. For example at the very end of an interview a mother earlier hesitant about challenging the orthodoxy was able to suggest, albeit diffidently,

'oh well it's maybe funny to say this but in a way I think they should have been punished because I don't think, if they've done it I don't see why they should get off with it, it's maybe a silly thing to say ...'

The concern during the interview was to maintain a delicate balance, to allow the parents maximum control yet at the same time to ensure that certain areas, identified from the literature and from previous research as significant, were explored, even if only to reveal their relative unimportance to the particular respondent. The requirements in structuring the interview therefore were that it should allow for parental initiative to be uppermost but at the same time ensure that specified subjects were covered. Before the first interview a draft questionnaire had been evolved which listed both the areas to be discussed, for example expectations, participation, function, decision-making, and within each, specimen questions, the intention being that if not spontaneously mentioned by the parents these would be broached at some stage during the interview, not necessarily however in any strict order or

format. In addition, with the prime object to stimulate discussion of the aspects which appeared relevant to the parents, the initial statements of the interview would be of a general nature, inviting an open response from the parents on whatever aspects of the hearing system they wished to present.

When both parents or perhaps a parent and other relative had attended the hearing it was hoped that both would be available for interview. Initially the intention had been to interview both parties separately but although this was achieved in the first few instances it was decided that the difficulties of achieving separation outweighed any advantage. Indeed the reactive discussion often provoked by the joint interview allowed for issues to be explored in greater depth. A discussion can develop between two participants which is more vital than the exchange between researcher and subject. It can clarify through a search for more accurate meaning,

- M. We were trying to frighten them into not doing anything
- F. not so much frighten them as
- M. well make them think of it
- F. keep their mind on it. We don't want them to forget too quick

or can expose latent disagreement,

- F. ... that's what annoyed me, I kept flicking the papers back and forward to find the charges
- M. They weren't actually concerned about the actual charges
- F. Oh yes, they've got to be, they've got to look at the seriousness
- M. Yes, the nature of them but they weren't concerned with the actual charges I don't think. They were more concerned with why he did it and when he did it and how he did it. They were more concerned to find out the reason ...

Surprisingly little attention however appears to have been paid in the literature to this problem of the joint respondent in the family situation. To what extent should two parents be treated as separate respondents, capable of conflicting opinion; to what extent is the unit the family with only one set of responses to be negotiated for both parties. The approach adopted in this study was somewhat arbitrary, but a compromise which is perhaps inevitable unless the two parents be treated as completely separate respondents with the attendant necessity for independent interviewing. Such a strategy would however preclude exchanges of the type outlined above and is a source of potential hostility if one party is aggrieved at the opportunity afforded for independent comment by her partner.

After the first two or three interviews it was felt that the schedule of several pages was somewhat unwieldy and given that the exact questions asked depended on the context of the discussion it was decided to work with a checklist of topics rather than with the fuller list of questions. This checklist is reproduced as Appendix 3. When, therefore, as in the majority of cases, the discussion ranged fairly widely without too much prompting the list would merely be referred to during the closing stages of the interview to ensure that all relevant items had been covered. Additionally the opening question became fairly routinely a statement as to how often the family had been to a hearing, this very often proving a lead for the parent to pursue their own initiative. Throughout the research a slight ambivalence remained over to what extent features arising from the observation of the specific hearing should be introduced if not already mentioned by the parents. Did their omission suggest that they were unimportant to the parent, my

observation of them merely reflecting my own prejudices, or did it mean that the interview was not sufficiently flexible, still overly structuring responses to within certain limits. Over zealous probing could lead to suspicion as in the following attempt to clarify guilt,

- M. That was scrubbed out you heard the man saying
that was scrubbed
- AP. I was going to ask you about that, did you you
think they paid enough attention to finding out
if he had done it
- M. Oh yes the man at the top table said we'll scrub
that, we've been misled, you heard him
- AP. That's right. I was just wondering if you
- M. Oh I'm paying attention to all that's going on,
too true I was ...

Retorts of this nature suggested that an earlier decision not to pursue the idea of asking parents to reconstruct the hearing experience had been correct. Aware that I had observed at the hearing the request would have appeared artificial. Parents assumed because of my presence a shared experience and would draw upon it, 'I don't know how you feel about it. You were there ...', 'He's my own boy but they were very lenient, did you not think so ...' To ask for an independent account, as if I were a stranger to the proceedings, could have created confusion over my role as observer, perhaps generating suspicion that I was in some way checking upon their understanding and leading to a reticence in their discussion.

A general impression is that the interviews tended to one of two extremes. Either the introductory questions precipitated a fairly constant stream of reflection and opinions or, in a minority of cases, responses were short and direct with little elaboration. The checklist was either necessary fairly directly or was used only as a final reassurance that all was complete. Parents were allowed to range fairly

widely in their discussion, permitted to define their own limits of relevance rather than being too narrowly constrained by the interviewer's remit. During the pilot it was found that certain of the questions and issues which had been identified proved less successful in discussion than others and as experience was gained adjustments in approach were made. This flexibility can be seen as a virtue, a response to the phenomenological demand that the initiative should remain with the subject. A perhaps surprisingly large proportion of parents found difficulty with questions as to the purpose of the hearing and as to who was the decision maker. Moreover if the issue had not arisen spontaneously I often found it difficult to introduce ideas of the care function of List D schools or the prosecution of children by the court without it seeming overly directive - perhaps a reflection of my own sensitivities. And as suggested earlier the extent to which evasion or misunderstanding should be pursued had to be delicately judged. As with the observation I would record immediately following the interview any particularly important issues which had arisen or indeed any other comments that came to mind.

The problem of meaning inherent in any communication and particularly in the interviewing situation must not be forgotten. Congruence must not be assumed between the researcher's questions and the parents' interpretation, between language as used by different participants. Towards the end of the pilot stage it was decided to actually confront parents with an explanation of the treatment and social welfare ideology behind the panels (an explanation similar to that often **proffered** by the panel itself) and to seek their reaction to it. This was only done

during the final stages of the interview when there had been sufficient opportunity for any spontaneous discussion of the issue, be it implicit or explicit. It was felt necessary to do this for otherwise there was, in some interviews, the possibility that the parents' own philosophies would remain unarticulated and therefore uncertain, liable to an inaccurate interpretation by the researcher. An open declaration does not of course guarantee a shared understanding but it hopefully minimises any charge of attribution. There was a danger however that in presenting the accepted doctrine of the panels the tendency was to encourage the dichotomous type of choice which elsewhere in the interview had been avoided. Imposed definitions rapidly force a response into unwanted conformity.

Throughout the development of the methodological strategy an attempt was made to conform as closely as feasible to the directives dictated by the phenomenological method. It seemed inevitable however that in order to achieve the study practical concessions had to be made. The extent to which these modifications invalidate the theory has to be set against the necessity of rendering the theory practicable.

The data base

It is appropriate at this stage, before we proceed to analyse, to present the background details of the referrals which responded to the research request and which provided the mass of data for subsequent exploration. A target of one hundred cases had been set and in order to attain this number one hundred and eighteen families were approached. Six gave a direct refusal prior to the hearing and a further twelve defaulted at the interview stage. If a family was not at home at the arranged time

a note was left arranging a second visit; this was felt to be justified by the large numbers amongst those successfully interviewed who though at home commented that they had forgotten I was coming. If however the second visit also produced no response no further attempt at contact was made and it was deemed a refusal. One parent at his own insistence was interviewed immediately following the hearing on the hearing premises. For one family where the parents were divorced separate arrangements were made to interview the two parents independently. The Region provided eighty nine of the successful cases, fifty six from the main centre, eighteen from the second and fifteen from the third; the remaining eleven came from the District with a spread across the four centres. In six of the referrals two children from the same family were under consideration, giving a total of one hundred and six children, six of them female. The children ranged in age from nine to sixteen but by far the largest group (43, or 41%) were fifteen year olds, and the majority (84, or 79%) were between thirteen and fifteen. This compares with figures of 30% and 74% for national referrals to the Reporter in 1979.

For forty six of the families studied this was their first visit to a hearing. Twenty five had been on more than one occasion with the same child (for fourteen families the second visit, for six the third), while twenty nine families had been referred on other occasions for other children. Fifteen families estimated that they had attended a panel five or more times. All the children had been referred to a panel on the grounds that they had committed an offence. For forty four of the children there were additional features to the referral: there was a referral on truancy grounds, a review, or some connection with the sheriff

court. The majority of children had committed only one or two offences but for a handful the grounds included a list of offences extending to fifteen or twenty. Specifically 81% of the children were referred on grounds of 3 or fewer offences compared to 83% of national offence referrals, 11% had 7 or more offences alleged (7% nationally).

In terms of outcome, forty of the children left the hearing with their referral discharged, thirty one were placed on home supervision (one with the requirement of a child guidance assessment) and two were placed in residential care. Five children had a previous residential supervision requirement continued (one with a change of location) and seven a home supervision requirement. Three had a residential requirement converted to home based supervision, six children were referred to an assessment centre, two had assessment continued and one was placed on a place of safety order. In three instances the hearing was at the request of the sheriff for advice and the case was duly passed back to him for disposal. Three other children denied the grounds of referral and the case was passed for proof. Three of the cases were continued for further investigation. Nationally the figures are 45% of offence referrals discharged, 32% a non residential supervision requirement and 14% residential supervision. In 9% of cases the supervision requirement remains unchanged.

Panel members seem often to place significance on who accompanies the child to the hearing, querying an absent partner. Of the cases examined the mother alone was present at forty four of the hearings, the father alone at fifteen. Twenty five of these mothers could be classified

as single parents, four of the fathers. Both parents attended the hearing in thirty seven of the cases (though separated in four), the mother and another relative in three cases and one child was accompanied by his grandmother. Where two parents attended the hearing it was not always possible for them both to be present at the interview. Thus the interviews comprised fifty two with the mother alone, fifteen with father alone, one with a grandmother and thirty two with both mother and father. Thirteen parents who were present at a hearing were therefore not involved in the discussion, ten of these from intact marriages (seven fathers, three mothers), the other three separated. In addition three fathers and five mothers who had not been present at the hearing participated during the interview. This flexibility of respondent could not have been sustained in a more structured interview; given the phenomenological bias it seemed entirely appropriate in this instance to adopt less rigid standards on who could contribute to the reconstruction of meaning.

Summary

This chapter has documented the progression from the adoption of the theoretical framework to the achievement of a methodological directive. It has explored the arguments for observation at the hearing and for relatively unstructured but focused interviewing and has detailed how these two strategies were pursued in this particular study. Finally, and as a preliminary to the analysis of the following chapters, it has sketched in the background details of those parents who participated in the research, both through allowing observation at their hearing and through responding in the subsequent interview.

CHAPTER FOUR : An Analytical Framework

The data which is collected through the traditional routines of structured observation or interview is fairly readily amenable to analysis. There are likely to be hypotheses to be confirmed or denied, relationships to be exposed, patterns to be explained. Responses may well have been reduced to a range of coded items and these can rapidly and extensively be subject to a welter of computer manipulations. The framework for the research having been established the subsequent stages are relatively unproblematic, programmed by the structure already implicit in the initial decision to pursue a more positivistic form of investigation. In the less structured research exemplified here there is by contrast far less certainty about the directions which should be pursued. There is a commitment to the data itself revealing that which is of importance. The result is often - certainly in this case - an extended period of uncertain progress, immersing oneself in the data and trying to absorb its essential characteristics. A narrow tightrope has to be pursued which on one side leads to excessive manipulation, on the other to a failure to recognise emergent patterns.

Qualitative analysis

Much has been written on the strategies for gathering qualitative data and there are many excellent examples of the resulting products. But rather less is said on the means by which these accounts have been accomplished. An order emerges without debate, a seemingly magical

identification of the essential patterns which are buried within the data. The effort to describe how specific features emerge as significant is not invested. The procedure of analysis remains implicit rather than explicit. This is not to undermine a few notable exceptions. At the level of a general model Lofland (1971) presents a highly credible formula for analysis based on a continuum of six social phenomena (acts, activities, meanings, participation, relationships, settings) and Burgess (1982) cites a number of papers which have attempted to confront the problem, including the collection edited by Blaxter (1979) and the work by Platt (1976) based on her study of research projects, a study from which she concludes that the process of data analysis is lengthy and complex, a search dependent in particular upon patience and upon inspiration. In addition the present study would suggest that certain types of data are more amenable to imaginative analysis than others; observational data for example is relatively unconstrained by prior structure compared to interview material which may already be channelled towards certain routines.

After an appraisal of an extensive range of qualitative studies Lofland (1974a) made the assessment that

'qualitative fieldwork seems distinct in the degree to which its practitioners lack a public, shared, and codified conception of how what they do is done, and how what they report should be formulated' (p.101).

Moreover he classifies the study reports which he has examined into a range of styles, few of which are particularly complimentary in nature, criticising for example failure to provide a frame for the analysis (the protocol style), over enthusiasm for framing (the vacillating style),

failure to incorporate the empirical material (the abstracted conceptualism style) or conversely an over enthusiasm for detailed examples (the hyper-eventful style). Nevertheless the typology yields some useful indicators of the most desirable characteristics that an analysis should attempt to emulate. Likewise the discussion by Bloor (1978) grounds an exploration of inductive techniques and in particular of the strategy of respondent validation in the context of his own work on ENT clinics, taking the accounts he derived of the process of consultation back to the specialists whose activities they described.

Recently there has been a revival of the call first made by Becker and his colleagues that there should be a greater honesty in the reports written on research. Both Rock (1983) and Cohen (1983) have endorsed the principle that research should be told as it is really done rather than abstracted into a remote and idealised formula. The reality rather than the theory of doing it should be revealed and errors and misjudgements should be as readily admitted as the successes and sophistications. The two collections of essays (ed Bell + Newby, 1977; ed Bell + Encel, 1978) which offer the 'inside' story of different research studies are also attempts at demystification. It is notable however that those who are able to call for this more honest approach are those who can do it from the position of assurance which a measure of success provides.

The search for order

The study under discussion did not immediately appear amenable to

imaginative analysis. Outside the activity of the hearing it was attitude oriented rather than action oriented, and therefore does not neatly lend itself to the attractive typologies which illustrate many studies, encapsulating in some catchy term the essential characteristics of each practice, the hawks, donkeys, wolves and vultures of Mars (1982) who was concerned with fraud in the workplace, the sweet young thing, the nester, the investigator, the seasoned urbanite and the maverick, management styles of people waiting in public places, one of a range of colourful examples quoted by Lofland (1971). In contrast the present study is somewhat more pedestrian, data centring on a fairly limited experience, an appearance at a children's hearing, and on the beliefs and sentiments which extend to the wider issue of offending by children and the nature of the appropriate response. The raw data consisted of a series of completed observation schedules and a pile of transcribed interviews.

Analytic induction would appear to be the term appropriate for the activity which attempts to make sense of this data mass. Defined in Burgess (1982) as the method whereby

'generalisations are derived from data presented in case studies by means of refinement, abstraction and generalisation' (p.210),

it is a shorthand for a lengthy process of selection and rejection, experimenting with different themes and with different schemes for ordering the data. It calls for an interpretation of the meaning inherent in the transcript data but demands that meanings are not imposed irrationally. It requires also that a logical consistency operates across the data provided by different respondents but does not necessarily

eliminate the problem of competing inferences.

The first stage in the data analysis was to select a number of headings under which to list all the material from the transcripts, a first move towards the imposition of order on the data. A wide range of headings was selected, some directly relating to questions pursued during the interview, others gathering together a more amorphous mass of information. The headings ranged from fairly discrete topics such as the role of the lawyer to more pervasive issues such as the ability to participate. The headings selected were at a relatively low level of abstraction and therefore had to be regrouped and reworked through a secondary analysis before the emergence of themes which would be used in the analysis itself. My feelings on the exercise remain ambivalent; in some ways it would have been profitable to have selected a more sophisticated set of initial headings which could then have served as direct themes in the analytical discussion, on other grounds there are arguments for retaining a low level of generality so that the original data can be readily retrieved during the extensive period of experimentation with different thematic groupings. Different levels of abstraction were attempted, experimenting with the distance which should be set between the actual process of the hearing and the concerns which emerged in interview.

The desire was to summarise the data through a number of fairly incisive characterisations, themes such as uncertainty or inequality which cut across the more immediate content of the exchange. It was difficult however to extract many themes which were not in some way context specific and the analysis tended to waver between the specific

and the general. There was to some extent a conflict between the attempt to generalise, which beyond a certain stage may become mundane, and the desire to explore the specifics of the context which may be of major relevance to the individual. At the same time certain themes may link across these individual concerns. The analysis as presented therefore provides somewhat of a mix of levels, a range from the general to the specific. It nevertheless attempts to incorporate the major issues of concern to parents at the level of generality which appears to be most illuminating.

Once there was some form of initial framework, thought had to be given to the links that should be made between the observation and interview data and in particular the extent to which links would be identified at the level of the individual interview. It was then necessary to return to the individual transcripts and to rework these in order to identify characteristics of the interview as a whole and of interview responses in relation to specific features revealed at observation. This was a period for stretching the data, exploring various connections and interpretations yet at the same time being wary not to impose too extended or too tenuous links upon it. It is a period both of satisfaction as an increasing amount of the data is incorporated and of frustration at the limitations which have to be imposed and at the fear that important content has been overlooked.

The pattern of analysis

A parent is notified that a hearing has been arranged for her child. She has to explain to herself why the child is in trouble, what should

be done about it, what is happening at the hearing and why.

Throughout the referral process, from initial notification to final disposal and beyond, the parent will be re-examining her own understanding and reflecting on the cues and messages she is assimilating from significant others. Before she enters the hearing her expectations are coloured both by biographical and cultural details of her history and by the more immediate influences of informants, be they friend or social worker. The first section (Chapter Five) will concentrate on these expectations, the state of knowledge with which parents anticipate the hearing, the frame of reference which provides their interpretative schema.

The analysis then moves logically on to discover what was the reality that was actually experienced. The style in which the hearings are conducted is examined (Chapter Six) and the whole question of participation, who talks and about what, is confronted in Chapter Seven. The following chapter (Eight) focuses on the decision-making process and the disposals which ensue, while Chapter Nine is devoted to an exploration of the preferences which parents express over a range of features of the hearing system, the status of panel members, the hearing vis-a-vis the court, the confidentiality of reports, the appropriate role for legal representation. Between them these chapters attempt to reflect to a satisfactory degree the issues which were of primary concern to the parents interviewed. Beyond them (Chapter Ten) will be an attempt to identify parental ideologies, a presentation of parents' varying views on what should be the motivation which primes a system of juvenile justice. Some loose categorisation will be derived against

which can be ranged the ideologies presented elsewhere for other key participants.

In identifying these particular features of the hearing we are primarily concerned with how parents make sense of the process, what routines of interpretation and action constitute for parents what they come to regard as a hearing. Throughout the discussion of the various themes that have been identified the use of a number of devices will recur. These include the use of explanatory accounts (Lyman + Scott, 1968; 1970), the adoption of strategies for impression management, and the development of techniques for the negotiation and maintenance of reality (Emerson in ed Dreitzel, 1970), all practices which contribute towards the allocation of meaning and which are commonly cited in studies of this type which attempt to reveal underlying process. One father for example defined precisely the impression management which he had to pursue, concerned to present as a satisfactory father with appropriate sentiments.

'I couldn't say what I'm saying just now because I had to say the right things to impress the panel. I was working for him. I couldn't sit there and say I think this and that because that was my kid and I'm getting scrutinised here and I'll have to say the right things'.

Parents are constantly offering accounts for the behaviour they observe at the hearing, speculating on the roles which panel members adopt and on the strategies which they employ during the course of the hearing. For example one parent charts the progress of the discussion

'They tried to set out to ease the boy, they started out talking about football I suppose that's trying to get the boy in a receptive mood to talk back and not just sit and freeze. Then they tried to get a bit about his behaviour and his home life ...'

while another attempts an explanation for the decision which was taken

'Obviously they says to themselves well this is the first time that the family's been in trouble, we've four other boys too, they've never been in trouble ... Obviously they know our history, that they'd never been in trouble, they've got their school reports ...'

In the more sophisticated analysis of Lyman + Scott however people make use of accounts to attempt a reconciliation between apparently conflicting evidence or activity, as a technique to resolve strain, 'verbally bridging the gap between action and expectation' (1968:46). Accounts of this type are particularly evident in attempts to explain differential referring or differential disposal. One parent for example attempts, though not totally successfully, to resolve her anger that the co-accused has not been referred to the panel.

'Maybe it's because of his age, he's sixteen. He has been told to go and look for a job, but again as I say he's sixteen, next time it happens he'll maybe get taken to the court. But as I say why let one off ...'

Another asserts that discrepancy is explained through the involvement of a lawyer - 'because I know one boy on the last occasion he got let off. He wasn't taken up in front of the panel because he had a lawyer'.

These are the strategies which will feature throughout our analytical discussion and which will be pointed as appropriate. There is also however a second series of elements which will recur throughout the discussion and which will be introduced and illustrated at this stage as a preface to the analysis. I refer to the elements which contribute towards the attitudes which parents reveal in their approach to their offending children. One of the major concerns of the analysis

is to expose the fundamental beliefs which orientate parents and which motivate them in their response to the experience of the hearings. Confronted by a child who has committed some legal offence, what do parents expect by way of official response (process) and in terms of disposal (sanction). Discussions on the philosophical basis of punishment are complex (see for example ed. Garland + Young, 1983), and in their more sophisticated stages often contradictory. Parents themselves however are rarely familiar with such discussion and therefore have fewer misgivings in committing themselves to an ideological perspective. The approach in identifying such perspectives will be twofold. Firstly the various elements that parents invoke will be presented. These will be outlined at this stage, as a preliminary to the substantive analysis, in order that their pervading presence throughout the different aspects of the analysis can be traced. Their presentation here removes the necessity for constant repetition throughout the text and enables shorthand reference to be used in the discussion. Though the elements are obviously dependent to a considerable extent upon the routine definitions of traditional debate these elements are nonetheless empirically grounded and have emerged from an examination of the transcribed exchanges. At a later stage, after we have progressed through the various frames of analysis, parents will be examined individually for the range of elements which they profess, different groupings being identified as ideologies.

The concept of ideology

It is necessary at this point to divert into a note on the use of the term

ideology, introduced without comment in the preceding chapters. The adoption of a phenomenological framework which gives credence to the individual perspective provides an immediate reference for an ideological stance, the stress on the individual's subjective frame of relevance. A commitment to expose the ideological beliefs of a particular group is a ready concomitant of phenomenological theory. Nevertheless it can be a dangerous concept to adopt - 'one of the most equivocal and elusive concepts one can find in the social sciences' (Larrain, 1979:13), the subject of extensive debate and speculation (for example Larrain, 1979; Sumner, 1979). It is a term which has been both under and over defined, a tacit understanding assumed or a definition presented so rigid as to have no general applicability. 'Thoroughly muddled by diverse use' (Converse, 1964), perhaps the only generalisation that can be made is that every individual who makes to employ the term must provide their own definition. Our own use of the term may well offend many who have studied the concept in some depth (may indeed be ideologically committed to the principle) but it is convenient as a logical continuation of other studies in the field of social policy which have adopted a similar generalisation (e.g. Smith + Harris, 1972; Hardiker, 1977; Rees, 1978), and in particular the studies, already examined in Chapter One above, of other participants in the hearing process itself (e.g. Smith, 1977b; Asquith, 1983). There is therefore a certain tradition to its use at this level of understanding. Hardiker for example examines the extent to which the ideologies operated by probation officers derive from social work; Smith + Harris attempt 'an outline of an ideological map, a framework for describing different ideologies about 'need' currently employed in social work' (p.28).

Our use of the term 'ideology' is, as in these studies, as a referrent for a generalised set of beliefs which inform and guide daily action and response, the guidelines which, whatever their origin, contribute to an individual's total view. Relevant to the present context Miller (1973) has typified the ideological stances of the criminal justice field, adopting a working definition for ideology which reads

'a set of general and abstract beliefs or assumptions about the correct or proper state of things, particularly with respect to the moral order and political arrangements, which serve to shape one's positions on specific issues' (p.142).

This summary would seem to accord well with our own use of the term; it is instrumental and implies little by way of hidden agenda. And, as will become evident as they are identified, there is no assumption within any ideology of a logical consistency. Miller points two particular features of his use of the term which should be noted; ideological assumptions are on the whole implicit and unexamined rather than openly explicit and secondly tend to be strongly defended if challenged, revealing the underlying emotional commitment. From her examination of the ideologies exercised by probation officers Hardiker (1977) concludes that the professed ideologies may not always be adhered to: they may be mediated by the exigencies of practice to be accomplished as an operational philosophy. Whether a lay ideology is also subject to such modification is a subject for exploration. A similar definition of ideology which contributes to our own position is that adopted by Fielding (1981) in his study of the National Front,

'a set of beliefs laid down in political writings and helping subscribers to interpret a range of events and inform a set of wider beliefs ... to the committed

individual, ideology directs and orders his construction of reality, the means by which he makes sense of the congested world of conflicting stimuli' (p.60).

In his case however there was the accessibility of written doctrine, a luxury not available in a study of the potentially more disparate beliefs of parents who must rely for their operational philosophies on the stock of public knowledge. Likewise the procedure outlined by Sumner (1979) for the reading of ideologies in legal discourse has to be modified when the only source is the personal interview.

A related concept whose use we should acknowledge at this point is that of the 'assumptive world'. In speaking of the importance of the assumptive world of the individual Young (1977; 1979) defines 'a framework for conceptualising a person's total subjective experience' (1979:10). Recognising the validity of the individual's heritage he proposes that the term should stand for a totality which is derived from the subjective values, beliefs and perceptions of that individual, a notion which at this level of generality closely resembles that of ideology. Young also distinguishes within the concept four individual elements, respectively cognitive, affective, cathectic and directive, but this greater detail need not concern us here. Essential to the notion of the 'assumptive world' is a recognition of the active nature of the individual, simultaneously contributing and responding to the reality around her. We will concentrate in this study upon the notion of ideology; this alternative formulation should however not be neglected.

Albeit somewhat abbreviated, this discussion of ideology and of the neighbouring assumptive world provides a base from which to explore their validity for the present context. As a first stage we will present here

definitions of the recurring elements which are to contribute to these ideologies. To reiterate, these appear to be the basic ideas from which parents begin to form their answers to some of the perennial dilemmas of juvenile justice. They have been identified from the data but inevitably bear close resemblance to many of the central tenets of criminological theory.

Elements

Parents speak very readily of punishment, but often in terms so general that their precise intent may remain unspecified. A number of statements however reflect unequivocally classic notions of retribution. Wrongdoing requires punishment and no further justification is necessary. The offending act has upset social order and this must be restored through the imposition of some unpleasant penalty. At its most basic,

'I'm afraid a human being has got to be punished, I think ... anybody that breaks the law should be punished'.

'I'm a great believer in that if somebody does wrong, yes they should be punished for the crime, I'm a great believer in that ... I think that the kids have got to be punished for doing something wrong, and I think it's got to start much younger',

a truth virtually self evident to some

'it's just common sense that tells you, he did wrong, he's got to be punished'.

An awareness of competing elements may cause a parent to hesitate

'Well I believe if you do something wrong you should be punished, maybe I'm a bit old fashioned that way',

but others are more decisive

'Let's be perfectly blunt, what's wrong with punishing them if they've done wrong'.

'There's too much of this wanting to find out if they've got any problems; the problem is they're dogging school so therefore there should be a punishment for it'.

A logical extension of a retributive framework is a concern with proportionality, severity of punishment related to the depravity of the offence. This appears an attractive element to many parents, and is often codified in terms of a tariff.

'This is X offence and what is the punishment for this, like a second hand car book, looking up the price. Yes, theft of a motorbike - 30 days right or wrong, didn't matter where you came from and that's the way they used to work. The punishment fitted the crime, it was more or less they could look up a charge and see what was the punishment regardless of who you were'.

The same concept is often apparent in parents' accounting for disposals - 'he had too much charges against him', 'it wasn't really a serious crime', 'it couldn't have been that bad what he'd done for them to put him on supervision'. Complementary to the principle of proportionality is the logic of consistency, that like offences should be disposed in like manner. Parents were specifically questioned on the issue of co-accused receiving different disposals, revealing that for many parents there is a commonsense acceptance of the principle, any breach evoking bewilderment, more often anger.

'This is what maddens me so much is why, I mean granted I know he's got to be punished for what he has done, I know that, but for them to sit there and say, right you're getting put away for six weeks and the rest of them walking about and still getting into trouble'.

The concept of fairness is breached.

'Take for instance there were three boys. There was him, E + R. Now E is in D..... Assessment Centre and R is in a List D school and he got away. Now for three ordinary people to separate three boys like that,

for they all did it, it wasn't very fair, it didn't look very fair looking on it. They should be treated the same because none of the three of them went to school, it's not as if one was there for stealing the darts and one is in for not going to school and one is in for mischief, they all got the same things and roughly they've been off the school the same length of time. Their backgrounds are just about the same as well'.

Another mother finds it difficult to deduce the logic of a List D placement.

'That's another thing I don't agree with, now he (J) was away for nine month but during that nine month he'd run away, he'd lost I couldn't tell you how many leaves, he got two other charges, yet he did nine months. He (G) had to do nine months yet he never got another charge, he never absconded, he was never late back from leave or lost a leave, now they both had the same amount of charges so why should he get the same as him, now there's something wrong there'.

In addition to principles of consistency and proportionality the notion of retribution raises also questions of responsibility, the degree of intent which can be attributed to the child in his committal of the offence. In the following extract for example, the parent uses the concept of 'evil intent' to select those offences deemed sufficiently serious (shades of tariff) to warrant punitive measures.

'I suppose law can differentiate between shades of things. Obviously if it were a very serious crime, I think with a very serious crime, a very wicked thing, something thought out with evil intent, I would say yes, I think that sort of thing should have a punishment but for a minor thing ...'

Retribution assumes a high level of intentionality, an indeterministic model of free will, and as such would logically be associated with individualistic causal theories. The child could have chosen to act otherwise.

'Yes you get punished for it, you're not needing any help. You know you've done wrong'.

'I think it doesn't matter what place you go to, it could be the dirtiest place like the bottom end, it doesn't mean to say they're going to be better, going to be worse. It's up to - I mean they're adults, they're in their teens, it's up to them. If they don't know right from wrong now they'll never know right'.

But classical theory allows also for the exercise of mitigating factors. Responsibility is diminished by the existence of excusing conditions. That most often cited for the child is his age, traditionally enshrined by criminal procedure in the presumption of an age of criminal responsibility. Parents also cite age as a factor for restraint, excusing the child from the full implications of his wrongdoing,

'I think it depends on their age again, if they're under fourteen he really is still a child, whereas if they're older they should know better. But I think under fourteen it gives them a chance to explain themselves',

and arguing, as developed elsewhere (Chapter Nine), in favour of panel rather than court procedure.

'I know he's done wrong and that but he's only fifteen years old and he doesn't really know anything so I think that was the best plan, the panel'.

The mitigating nature of youth is explored more fully by one parent who attempts to construct the meaning of the offence to her child.

'They should be punishing them to an extent but not like criminals, know what I mean, they're not really criminals because their minds are not I mean, I know E broke into that shop, that was a criminal act, but his mind's not criminal, that was like hide and seek, the cigs all hidden and, it was exciting ...'

Whereas the justification for retributive punishment rests solely on the individual having acted criminally, the consequentialist or utilitarian argument holds that punishment be justified on account of the consequences that ensue. Concern is with resulting benefits, be they for the individual or for society as a whole, and only to such ends will punitive measures be imposed. Two consequentialist strategies are commonly identified, those of deterrence and of reform. Measures for reform in particular may not satisfy generally accepted conditions of punishment (e.g. Flew) and therefore tend to merge into strategies more readily identified as therapeutic in nature.

Deterrence through fear is the preventative strategy which many parents invoke - 'to try and frighten him out of getting into trouble'. They seek some form of shock tactic which will be sufficient either to alter their own child's behaviour or to dissuade those tempted to imitation.

'If you get a fright then you are reluctant the next time, you sort of think first of all ...'

'The crime is rising so fast that it only points to one thing, to stop this upsurge in crime is fear of punishment. Fair enough treat them as human beings but it's fear of punishment that stopped a lot of folk ...'

This fear which is desired as a deterrent can be engendered both through the actual conduct of the hearing itself and from the consequences of the decision as to the appropriate disposal. The authority of the hearing itself is important to many parents and they would endorse the practice of those social workers who place importance on the deterrent effect of bringing a child to a hearing even though compulsory measures

of care are not anticipated. Parents who seek an authoritarian experience naturally reject attempts by the panel to reassure the child that there is no need to be anxious, that they should relax and should stop worrying. Such reassurance is dissonant if the parent has been attempting to instil fear and may create a bond between panel and child which makes the parent appear foolish.

'I think it would do them more good if they were getting a fright. They sit there and tell them they are not going to harm them in any way and not to be frightened. Our S couldn't have cared less and I had the fear of death in him for going ...'

'Even their tone of voice and the way they spoke to him. It was as much as they were saying to him poor B, you are a silly boy... He should go to places like that to be frightened out of his wits I would say'.

The element of deterrence will surface at various stages throughout the discussion - in the choice of personnel to sit on the panel, in the manner in which the panel is conducted, in the expectations which are engendered prior to the hearing. It is prevalent also, it was found, amongst those parents who would prefer to see the courts used as the medium of juvenile justice. The symbolic atmosphere of the court, its rituals and rhetoric (Carlen, 1976) is more likely to create, according to such parents, the desired deterrent. The 'judge with the wig' generates a pervading sense of fear which they regard as essential to an effective system.

'I think it would have given him a bigger fright if he had been put in front of the sheriff court, it would have let him see that he had done wrong and he was being punished for it. But I mean giving him a talking to is not punishing him, not in my mind anyhow'.

A mother with considerable experience of the system points the contrast vividly.

'If you were going up to court for something you've got more nerves in your stomach you could make lacy curtains with the nerves in your stomach, there's nae exceptions to that, I mean there is nae exceptions to that feeling, that fear of going to court. Now quite a few of them been up to the panels, they're maybe making their seventh appearance back at a panel, neither by shouting and bawling at them in a panel or being nice to them are you going to alter the fact that the panel hasn't got the authority the court has and they know it'.

The disposal of the court may be no different: its authority is sufficient.

'It would have frightened him. Even if the punishment at that court had been nothing, the authority was there'.

Other parents however look to the disposals awarded as a major source of deterrence, both for their own children and through wider dissemination to youthful society as a whole, a theme which will be resumed in the discussion on the measures available to the hearing.

The second strategy concerned to promote beneficial consequence is that of reform or rehabilitation (here used interchangeably though purists might argue differently). Divergent interpretations again bedevil attempts at definition when approached from an academic context: conditions under which measures for reform no longer constitute punishment, the extent to which deterrence may itself promote reform. These complexities can be avoided however by pursuing the options as identified by parents who, unrestrained by requirements of consistency, can more readily conflate opposing tendencies. From the theoretical side it is sufficient merely to point the implications of the responsibility argument as it shifts from a free-will to a more deterministic statement. If action has been determined by predisposing

factors the individual can no longer be deemed morally responsible.

Reform through punitive means is a valid concept for a number of parents, although it can be difficult at times to distinguish it from on the one hand deterrence and on the other therapy. Their concern is for the welfare of their child, for his restoration as a law abiding individual, and they see this end most readily attained through some form of punitive imposition. One mother attempts to explain such a philosophy -

'If he got a shock it would help him. I tried to get them yesterday to put him away, really come down hard on him because I don't want to see him go away because I love L an awful lot, but I want somebody to help him. That school in D..... is no good for L, he needs putting away where he gets discipline and do things he's not wanting to do, where he'll be there, to force it into him he did wrong, he's there for punishment, D..... is not a punishment place'.

As the need for a punitive element declines however therapy takes over as the dominant mood. Therapy is used in preference to the term 'treatment' in an attempt to shake off some of the confusion and ambiguities with which, as Chapter One illustrates, this term has become imbued. From some parents who endorse such a principle the declaration is little more than a reiteration of the aims expressed by the chairperson in the opening rhetoric of the hearing - 'we are not here to punish your child but to see what help he might need'. Yes, the parent replies, 'it's help he's needing more than anything', 'the panels aren't there to punish them, they are there to help them'. Indeed explicit reference may be made to the declared philosophy.

'Well I hope that punishment isn't the reason for the panels because the impression I got of reading the leaflet and listening to them talking that the idea

wasn't for punishment and to get away from that idea of punishment'.

Many parents however examine the problem with more precision.

A large number stress the role the panel should play in diagnosis, in seeking out the reasons for the child's behaviour.

'I think if they got to see maybe why the child done it or maybe if something was worrying him at the time or threatened or anything like that, I think they should look in to see why the child really did it ...'

'They were trying to find out what went wrong, why he did these things. He had no need to do them and that's what I think they were trying to get at ... I think they were trying to get to the root of W'.

On occasion echoes from Kilbrandon can be heard,

'surely the basic the same as medicine is it's got to be prevented. They've got to find out why these kids are doing it',

while in the following extract the debate between partners reveals the importance for one of this need to probe the root cause.

- F. Well I don't see where J has got problems
- M. He must have Jimmy or he wouldn't do these things, I've told you that before
- F. I don't know how
- M. I don't know how or why but he has, obviously, I've quizzed him and I've, everything, I've been like a psychologist myself trying to find out, folk don't do these things if there's not something wrong with them.

Certainly the mother points here her belief in determinism.

A logical development from a search for causal elements is a concern for individualisation, a desire to meet the differing needs of each child. Thus, 'each face is dealt with differently', 'you would have to have widely varying circumstances for each case'. The decision is reached on the parameters of the individual case rather than through routine determination: 'they select the school don't they, whether it's

strictness they need or just a wee bit caring'. With their use of the concept of individualisation, many parents cut across the traditional debate. The needs of the specific child determine whether punitive measures are necessary, and if so, of what form.

'I suppose it depends on the child, some maybe need help, some need punishment ...'

But while this argument may be promoted by parents at an abstract level its full implications can rarely it appears be accepted. For the logic of Kilbrandon suggests that there should be no distinction between those who have committed offences and other children who may be in need of compulsory measures of care. Very few parents for example could endorse the mixing in the same residential establishment of children who had offended with those in need of care. To mix children from different referral categories will result in contamination.

'There are the good and the bad and you usually find the good go bad rather than the bad going good. Where there are some who have been in trouble they are more likely to bring the other ones down to their level than the other way'.

There is concern indeed that different levels of offenders should also be segregated.

'They may meet a lot of new mates in there with new ideas they never knew. If they were caught then for stupid things they were told then how to eliminate the stupid things and elevate themselves to a higher class'.

As with the other elements these ideas will be returned to and developed throughout the discussion of the data.

Summary

The aim of this chapter has been to prepare the way for the substantive

analysis which follows. It opened with an exploration of the problems that are peculiar to qualitative analysis and discussed the strategy that was adopted for the present study. The overriding role afforded to the notion of ideology necessitated discussion on the use of this concept, together with the not dissimilar 'assumptive world'. The remainder of the chapter is devoted to a systematic explanation of the elements that will figure throughout the succeeding chapters of analysis as we build towards the identification of parental ideologies.

CHAPTER FIVE : Expectation

'we were going in blind sort of style'

In the previous chapter we introduced the notion of the assumptive world, a summary of the individual world view. In this chapter we will be concerned with the expectations that parents have prior to their appearance at a hearing, the influences which prime the assumptive world in preparation for the management of the hearing experience. Exposure to the media, to significant others and to agencies adjacent to the hearing system may all play a role in the development and modification of relevant aspects of the assumptive world, creating within each individual a specific set of expectations with which to prepare herself for the confrontation with panel members.

The evidence suggests however that far from their assumptive world providing a variety of scenarios with which to anticipate the hearing the majority of parents approach the hearing from a framework of uncertainty. Before attending a hearing for the first time only one quarter of families felt they had any knowledge at all of what they were to encounter. This suggests that for many the hearing system in particular but also its context of juvenile justice occupies a marginal position in their everyday understanding. It only becomes salient when they themselves are called to a hearing and begin to speculate on what lies ahead. This shift from marginality to centrality does not necessarily imply however a corresponding advance in the state of knowledge. The impending event may assume central significance but

there may be no accompanying increase in available information.

Uncertainty

Uncertainty in this context implies that parents just did not know what to expect when they arrived at the hearing. At least 65% of the families placed themselves in this category. They felt that they were uninformed and were unable to anticipate what sort of experience might be in store for them. It was an encounter outwith the boundaries of their frame of reference and nothing had impinged upon them which had left any expectation which could be clearly articulated. Some indeed were unaware of the existence of panels: they were completely outwith their past experience.

'They never used to have things like this, never knew what a panel was until they came to the door and told us about E going up and I said what's a panel'.

'I never knew anything about them, in fact I never even knew about social workers, I didn't know there was such a thing'.

'The way I was brought up they were unheard of, they were unheard of, I mean never in my life before did I come across child's panels up until D got into that bit of mischief'.

Others had registered that there were such bodies but had no further idea of their function or structure.

'I didn't know anything about them. Well I had heard about them on the TV and things like that but I didn't know what they were or what they did or anything'.

'All I had heard was that you went in front of a panel and that was it, but I didn't know what it was about or anything'.

Several parents whose expectations were characterised by uncertainty hinted at a possible explanation of their position, suggesting that

within their social neighbourhood the children's hearings were not a subject of common discourse; marginality was maintained. Unless or until it was a shared experience acquaintances were unlikely to embark upon a discussion of their experiences.

'Well I didn't know what I had to do. Nobody I've spoken to, but well you don't talk about this sort of thing, if you see what I mean. Why I don't know, but I don't know anybody who has been'.

The reluctance may indeed be on the part of the parents themselves, a reflection of a traditionally guarded lifestyle and perhaps wary of laying themselves open to possible stigma.

'No. I never discussed it with anybody. I never tell people my business, that's why. I never asked anybody'.

But for other parents their uncertainty persists despite having been exposed to the opinion or advice of others. The information provided by the social worker is particularly cited in this context. Ten of the families in this category specifically referred to the details provided by the social worker but explained that despite this guidance they still felt themselves to be in a state of uncertainty as they anticipated the hearing. It is not therefore merely a function of the state of knowledge.

'He came up I think it was a week before and explained it to us, that it would be informal, nothing like the court places or things like that, it's very informal. He did explain all that but it still frightened me, I was a bit dubious about it, I didn't know what to expect'.

Nothing can substitute for direct experience.

'She did explain that sort of side and explain what like it would be when we went into the panel, what it would be like to see them, but I mean it's different when you go, you just don't know what to expect'.

'No, well he did like, but it's never the same as what you think it's going to be'.

For such parents the provision of more or better information will not necessarily reduce the state of uncertainty. It was uncertainty based not so much on lack of knowledge but on lack of experience.

Ignorance

It is perhaps not surprising that for the majority of parents their general perspective on the hearings prior to any personal involvement is one of ignorance. The panel system and the hearings do not appear to be a topic of common discourse and therefore a parental acknowledgement of ignorance is widespread. This absence of knowledge can however lead on to a further state, one of misapprehension, in which the parent builds out of ignorance a series of erroneous expectations. About a tenth of the families in discussing their anticipation of their first hearing revealed that the state of uncertainty described above was replaced or at times extended by a number of such expectations. Several parents for example had expected that the panel would retain characteristics common to a court - 'I had visions of going up to court'.

'I got told it was just like going to court well you expected all the wigs and the regalia of the court but there was nothing like that at all it was just ordinary clothes they had on'.

We can only speculate at this point on to what extent parents such as these who anticipated the court imagery were also associating with it certain ideological elements. Did they associate for example the court with a deterrent or retributive ideology and therefore translate these

expectations to the hearing or was their concern more immediately with physical appearance. The image of the court itself may of course only be a fiction, but one likely to have acquired greater substance through the exposure of the television screen.

'I thought it would be more like going to a court. It's completely different. You know how you see Crown Court on the TV with the wigs, I thought it would have been like that ... I still thought it would be a judge and the like'.

This parent continues with an interesting exposition of the dilemmas attached to interpreting the other's explanation.

'You know how you get something in your mind when somebody tries to explain something, you get your own picture and when you do see it you think no that's not what I thought'.

A confused idea of the purpose of the panels reflected another source of parental ignorance. Some for example were confused by the attendance panels, sub committees of the school council which local education authorities hold to deal with truancy.

'I didn't even know they existed until this happened, you know. I always thought that if a boy got into trouble it was court they went to, I didn't know, I mean I knew there were panels but I thought it was for boys who weren't going to school'.

Indeed some erroneously believed, having been to such an attendance committee, that they had already attended a hearing.

'Well I've been at a panel before but that was for her not going to school ... It was entirely different, that was just a small panel, but this panel I went to before, they were down each side ...'

For many parents who had been involved at some stage in measures to combat truancy there was considerable and understandable confusion over the boundaries between the different agencies to which they could

be referred, the attendance committee, the sheriff and the panel all having jurisdiction. There were also strong views expressed that there was unnecessary duplication and no apparent logic in the sequence of referral to these different authorities, a situation which could promote further confusion.

'Why fine you and send you up there for red faces and all the rest of it. They are pulling you all roads I think'.

Parents also revealed other areas of ignorance, the result in general of mistaken assumptions rather than inaccurate informants. One mother, much to her regret as she had been seeking help with a stepson, understood that the only referral route to a hearing was through the committal of an offence.

'I knew there was a children's panel, but how to get to the children's panel, I understand it is only if they do an offence, you know, like stealing or whatever they can get up to. That's the only way, I think anyway, you can get the child to a panel'.

A couple of parents expected co-accused to be all present together, another that the police would be a party to the proceedings. Erroneous ideas could result however if parents had mistaken the exact nature of others' experiences. For example one explained that her neighbour had gone with her daughter for truancy and received a fine therefore this was also her expectation. Several others appeared to confuse their present experience with referrals in the past to a variety of other agencies - a symptom of the 'no more than contact' environment vividly evoked by Rees (1974). This could lead to a belief in the parent that they approached the hearing in a state of knowledge, only to be confused by the emerging reality.

Knowledge

Just under one quarter of the families in the study considered that they approached their first hearing with some sort of idea of what they were about to encounter: their assumptive world provided substance. One or two were fairly assured, 'oh yes, it's a regular thing about here', and a few referred to specific sources of information. Five parents only spontaneously mentioned an official information leaflet sent out at the time of notification of the hearing (though this did not guarantee it would be read) and small numbers made general reference to various aspects of the media. One had seen a schools' television programme on the panels and others had followed, not always with approval, a series of articles which featured in the Sunday Post during one stage of the research. The perspective presented by these articles tended to be anti-parent and anti-child - 'give his mother a character transplant', and accords well with the assessment of the attitudes of the Scottish popular press towards the hearings which has been summarised by Martin (1978).

'The popular press is relentless in its pursuit, and emits a continuous stream of sneers about 'soft options' and 'lack of teeth' and 'do-gooding' ... The Scottish popular press is dedicated to the creation of what Stanley Cohen (1972) calls moral panics, and knows only too well how to make effective use of the evocative symbolism of young thuggery' (p.84).

In the majority of cases the knowledge which was recounted by parents tended to be of an anecdotal nature, the experience of friends and neighbours rather than a more comprehensive understanding. It is a subjective rather than a theoretical knowledge and is often based on hearsay. For example one parent recalled the fate of other children,

revealing thereby her own relative assessment of the importance which should be attached to truancy.

'I had heard lassies that their kids had went up for maybe just truanting and they've been put into a List D. I know two lassies that their laddies were put in there and that was just for truanting'.

Where such individual cases were known they were often cited as a referral point against which to speculate on their own outcome - 'one of my friends, her wee laddie got put away, but he had eighteen charges against him ...' If parents have devised their own strategy for meeting the referral they may feel unhappy with the knowledge that they glean from these individual accounts, fearing for example that their own intentions will be undermined. One mother explains the dilemma as they approach the hearing.

'I've only heard of one of the ladies' daughter who works beside me her son had been up and that was the only time I had heard and her son had got off, they don't do anything and I said do they get off as light as that, and she said yes, that's it, they just get a warning and yet we had been putting the fear of life into S, we didn't want him to go away, but we kept saying, he didn't know what was going to happen'.

Others, although they had heard other parents who had attended hearings, were reluctant to grant them undue attention and would not accept their accounts unsubstantiated.

'From parents I had heard plenty about them but I didn't believe them, I thought the parents were all biased. Well the parents are all biased, the child is actually condemned before you go in. That's what I feel now and that's what I'd been told by other parents but I didn't believe it then, I thought well naturally they're taking their child's part but that's the second panel and you know they're just not believing a word you say ... I've never met a parent yet that's got a good thing to say about these panels and up until I went with E I thought the parents were biased, it can't be as bad as that, but I know now it is'.

Only direct experience would judge the accuracy or otherwise of the hearsay: in this instance it was confirmed and the parent conceded that the accounts of others were accurate.

The anecdotal and limited nature of the knowledge which parents recount underlines the marginality of the hearings in their consciousness before they themselves were summoned. Moreover the dangers of distortion inherent in asking parents to recall their state of knowledge prior to the hearing would likely lead to an over rather than an under estimate of their own awareness. It is safe to conclude therefore that parents approach their initial hearing from various states of knowledge, ignorance and uncertainty, but that even for those granted a measure of knowledge it tends to be partial and undeveloped. The overwhelming impression is of parents confronting their first hearing with very little of the support that could be derived from a state of more certain knowledge. This general statement is confirmed if we look in more detail at two specific aspects of parents' awareness as they anticipate the hearing, their understanding of the status of the panel members they are about to encounter, and the extent to which the social worker has involved them in any recommendation already before the hearing.

The identity of panel members

Parents were asked if they knew anything about the people who sat on the panels, in particular whether they were aware of their lay status. The discussion would take the form, 'before you went to a hearing for the first time did you know anything about the people that sit on the

panel'. Supplementary questions would be asked as necessary to tease out their understanding of panel composition. Even at the interview subsequent to the hearing only 47% of families appreciated the true nature of panel members, that they were not full time employees, that they did not belong to specific occupational groups, that anyone was entitled to apply for panel membership. In several cases it had been the presence on the panel of someone with whom they were acquainted that had alerted them to the true nature of the position.

'I thought that when I seen that woman because remember I thought that, I said to you that woman never asked me a thing because she knows me and I know her'.

For others it was the discussion during the research interview itself that revealed this identity - 'It is voluntary? I've never heard anything about that before'.

Those who were ignorant of the true structure of the panels displayed a variety of prejudices. There was a strong expectation that panel members would be from the occupations traditionally associated with professional training; doctors, lawyers, teachers were amongst those commonly cited.

'All I think I know is that they are professional people ... Well I thought they were professional people like doctors and lawyers you know from different walks of life'.

There was an assumption that members of the panel had attained a certain standing, occupied positions which could command a certain authority.

'I thought there would be someone higher up, maybe an Inspector, maybe giving them a talk or maybe a retired judge or someone like that, someone in authority, a solicitor ...'

An alternative expectation was that panel members were connected in some way to the court, a parallel perhaps to the system of JPs.

'Oh they're just ordinary people, I thought they were something to do with the court. Well I thought they would be maybe something to do with the court maybe a JP or something like that, somebody who knew something about it'.

'I didn't realise it could be anybody, anybody off the street, well I didn't know that. I thought they were like somebody from the court or something like that'.

Ambiguity pervades these expectations however in the meanings that are attributed by parents to concepts such as lay and professional. For example for these parents being connected to the court appears to deny the status of 'ordinary', yet in an alternative understanding this is exactly the standing of the JP. Likewise talk of the professional can float uneasily over the distinction of professional by dint of specific training and professional as an attribute of the full-time practitioner. The doctor for example (professionally trained) is distinct from the full-timer solely engaged in panel business.

In casting around for a model parents obviously invoke the possibilities with which they are familiar. A further alternative which they may cite is the model of jury service, with a number of references being made to the appearance on the panel of 'people just off the street'.

'I would take it that the panel comes from the same walks of life as what they pick an ordinary jury, when a jury's picked they pick a jury just out of everybody, every walk of life, it could be doctors, it could be a mathematician, it could be a bus man'.

At least one parent compounded the various alternatives into a somewhat contradictory whole.

'It is voluntary? I've never heard anything about that before. Yes well I thought they were professional people. I thought it was something like some of these tribunals you know for farmers (sic) just like councillors or JPs elected'.

The impression emerges as from this statement that many respondents are casting around somewhat vaguely for an appropriate model, grasping at images which appear relevant. The dominant perspective is again one of marginality, considerations which have perhaps impinged little in the past. Within these statements on the preconceptions parents held as to the identity of panel members there may lurk hints of the preferences particular parents hold as to panel membership. These will be pursued at greater length when the preferences of parents on a variety of issues are revealed (Chapter Nine).

Social worker as informant

Several parents volunteered that it was the social worker who had clarified the identity of those sitting on the panel,

'He says well do not worry yourself Mrs because it's really nothing to worry about, he says it's just working class folk like yourself, it's not as if it's big policemen and judges and things like that, he said it's just ordinary folk'.

'I thought it was all judges and that ken and justices of the peace and that but when we were going to F Mr C says that it was only working class people that was there ... he told us that one of them was a teacher ...'

and the role of the social worker as a key informant was examined in more detail. May (1977) has stressed the 'de facto power' held by the social worker in her control and interpretation of information to and from the hearing. But the social worker is also in a unique position in her contact with parents prior to the hearing, able to

contribute towards parental expectations through the provision of detailed knowledge. It hardly appears however that this opportunity is exploited to the full. Parents report that for the most part social workers confined themselves to offering a few details on the seating and personnel that they would encounter at the hearing. There was little if any discussion either of the purpose of the hearing or the philosophies underlying it. Typically

'Mr M the social worker explained to me a few days before what it consisted of, two women and a man and the Reporter or two men and one woman but other than that, and he explained where they would all sit, but other than that I didn't know what was going to happen',

details which allow ample scope for misunderstanding -

'She just said it would be three or four folk asking me questions but I still thought it would be a judge and the like'.

At best any explanation, certainly on the recall of the parents, appeared partial, with parents giving little impression that they had been party to any extensive discussion of the system they were about to enter. Especially for initial referrals the social worker often appeared as a shadowy figure (one mother responding to a question about whether the social worker had told her anything of what to expect at the hearing with 'which one was that'), a one-off visitor who had failed to establish a clear identity or to impart a ready definition of her role both prior to the hearing and during the actual proceedings. Given the low profile which the majority of social workers subsequently adopt at the hearing (Chapter Seven) it would appear that far from exploiting the unique nature of their contact with the family it has, in the majority of cases, become a routinised fact-gathering encounter, one-way

rather than two-way information exchange.

Social worker as decision-maker

The social worker has a key role not only in informing expectations but in structuring the hearing itself through the provision of reports and through the involvement of the family. The status of the report itself will be discussed later but in attempting to reconstruct the state of knowledge from which parents entered the hearing details were sought on the extent to which social workers discussed any recommendations they might be making with the family prior to the hearing. For parents the outcome of the hearing in terms of disposal is obviously a major concern, usually the major concern, and any indications given by the social worker are likely to be seized upon. Disparity between expectation and outcome is likely to be a major area for comment.

Social workers had given some indication of the recommendation that they would be making in their report in exactly half of the cases studied. Perhaps surprisingly there is no evidence to suggest that if a family is already known to the social worker, the child perhaps on supervision, the social worker is any more likely to reveal a recommendation. Not all social workers of course will make a recommendation in their report, a variety of circumstances convincing them that it may be preferable to leave the decision to panel members. If this preference is revealed to the parent it may not be well received.

'She said, I don't know what to recommend, I'll just leave it up to the panel. She couldn't even say what she wanted. Even that night she didn't want anything to do with it really. Maybe she was frightened to take the risk in case it would come back on her, she's maybe just in the job. She just wasn't wanting the responsibility'.

Those who have put a recommendation in their report may be ambivalent as to whether they should share it with the parent. The recommendation may not be followed and they may be wary of creating too specific an expectation. To withhold the information on the other hand is to limit the extent of debate with parents, to wield whether by intent or default the power of retention which their position ascribes to them. One mother spoke at length of her increasing frustration as the child psychologist remained enigmatic over what the substance of her report would be.

'All through her coming she never ever would give me any inclination what she thought. No never, I must say, she never ever told me what she thought, you know, what she thought would happen, and I used to get quite upset to think she can't tell me what is going to happen ... and then the last week before the case came up she came out to see me and she said now I'm coming out to ask you what your decision is going to be ...'

The social worker (or in this instance child psychologist) may of course have various motives for retaining information. She may simply not know what she wishes to recommend or she may wish to keep her options open.

The example above illustrates a technique that social workers can use to their advantage, managing the situation so that the parents themselves appear to initiate the recommendation which goes forward to the hearing.

'He asked us if, what would we like for L and that so we just told him that we wouldn't like to see her getting put away so he says that he thinks the best thing would maybe be for a supervision order for so long'.

Such parents are likely to feel a greater involvement in the decision-making process than those who are uninformed. Here again however the

motive of the social worker may be different. The management may be not so much in order that the parents experience the initiative but a strategy designed to ensure a continuation of the counselling relationship. Davis + Strong (1976) for example, examining the management of the therapeutic encounter between therapist and child, underline the active role which has to be adopted by the therapist in order to achieve her role; there is a therapeutic agenda for each child which the worker must strive to attain through constant negotiation. The social worker above who seeks to enlist the opinion of the parents may however encounter a dilemma for not all parents feel it is their role to contribute in this way.

'She said, 'What would you like me to recommend for M'.
Well I said, 'I don't know that wasn't for me to say,
it is not my job'. I could have said just let him off
so what was the point in me saying anything'.

The strategy is unlikely to be successful if the alienation of parents is such that the encounter is seen as adversarial rather than a joint discussion of the child's well-being.

In other cases however, particularly where a residential placement was involved, the recommended disposal might be presented by the social worker as absolute, reducing the hearing to a mere formality, a pattern which also led to criticism from parents.

'He sat there and he rattled off about you're getting
put away, you're getting put away, that's all he said'.

The concern may not be so much with the reduced status of the hearing but with the more important impact of the knowledge on the child.

'We've no complaints about the social worker, she's
been awful nice, but she told us three weeks ago that
E was going away for six weeks. Now E knows for three
weeks before he goes up that he's going away, many a

laddie could have run away or something... If you go to court you don't know what is going to happen but all these people that go to panels, they all know before it, they all get told weeks before it that they're going away which I think is a bad thing'.

The social worker of course exercised power not only in the recommendations she chooses to make but also in her decision whether to release or withhold this information. Occasionally parents felt that the social worker was abusing her privilege and suggested this was to the detriment of the working relationship. One parent for example suggested that the social worker's taunts negated any attempts at more constructive interaction.

'Before A was taken to the panel she came down here and she was telling A she used to say to him, are you all ready for next Thursday evening, you know where you'll be going and one thing and another, I don't think that this is right because she just put a lot of worry not only on A but on top of me, I mean there were nights I never slept, now the last time he was taken to court for not attending school or the panel she told me to take a case of clothes up there as well for to be put away that night, and I mean I don't think it's right that they should come out with that and I think this is why A, she's not getting to the bottom of A because she's been frightening him too much'.

Interestingly however in this instance the father attempted an explanation ('account') for the social worker's behaviour, recognising that the social worker may have been pursuing a somewhat different intent.

'But at the same time, you've to look at it both ways, in all probability, although it upset the wife and I, it's maybe been for to give him a fright so that he would attend the school, which he didn't do after he got off the hook'.

Such an account illustrates the position of the parent, attempting an explanation from the disparate elements which she encounters, striving

to make sense of the attitudes adopted by significant others. From a general state of ignorance she has to allocate meaning to the behaviour of social worker, Reporter and individual panel member.

Anticipation

Despite the various potential sources of information that have been discussed uncertainty remains the overwhelming sentiment prior to a hearing. Uncertainty translates into anxiety and dominates any discussion of parental feelings as they anticipate a hearing. At one level the concern is the unease at being in a situation whose rituals are unfamiliar.

'I didn't know what I had to do'.

'I didn't want to ask'.

'I hadn't a clue where to go or anything'.

'I hadn't a clue who would be there'.

But more fundamentally there is the worry of what might be the outcome.

'I think it was worrying what was going to happen at the end of it. You hear them saying he's marked and others say they've been in front of a panel plenty times and they got off ...'

For many parents there hangs as a constant threat the fear that their child could be removed from home.

'Yes I was worried because if they turn round and say your laddie is going away for a month you can't say he's not going. I'd have went mental'.

One mother, repeatedly told by a policeman that her son, a first offender, would be sent to a List D school, was treated for depression, despite assurances from her lawyer that residential supervision was an unlikely outcome.

But whatever the cause of the anxiety its strength should not be under-estimated.

'The first time I was really terrified to go, I didn't even want to go into that room. In fact this was why (this time) I insisted my husband get out of Peterhead under escort to be there, I wasn't going to go ... I couldn't have been there if they had been putting him away, I just couldn't have been there, I just couldn't'.

The worry and turmoil of the preceding days was repeatedly recalled, still a vivid memory,

'You're worrying the whole time, you're going to your bed and you're lying thinking about it at night; you know he's got to go up you're saying three weeks on Thursday, two weeks on Thursday, then this time next week',

and several reported physical symptoms which had required medical attention. A number of parents confessed to increased anxiety if they had to return to a hearing for a second time, particularly if they had to face the same panel members and report their 'failure' in being referred again to a panel.

Only a small minority of parents denied any undue anxiety in the days preceding the hearing - 'I know what to expect', 'I'm quite relaxed ... it doesn't bother me'. One mother elaborated that her confidence derived from a certainty that her care for her children was not at fault.

'I think if you've got that assurance yourself that you look after your kids and that you've not really any problems. That's the way I feel anyway. It must be worse if they come from a bad background and you're having to go up there and say your part, we'd no real worries about that'.

The anxiety of parents derived primarily from their anticipation of the hearing and outcome. It seemed in general unrelated to wider fears of

reactions of friends or neighbours. For a few a sense of shame or of embarrassment predominated but in general any feeling of stigma was minimal. There was indeed rather a defiant independence which disdained the regard of neighbours and acquaintances.

'Not a bit. Not a bit. I don't live by friends or neighbours. I do my own thing'.

'Outsiders are nothing to me. It's what happens in my own home that I bother about. I don't bother about folk outside'.

Or, rather less defiantly,

'No, no, I always say you can't throw stones'.

'No. It doesn't worry me at all. The only thing I'm concerned about is G getting help he's needing and if he's getting help it wouldn't worry me who knows I'm going to a panel'.

A typology of approach

In their study of the defendant's perspective on the criminal process of the courts Bottoms + McLean (1976) derive a typology of the different approaches which individuals adopt in their encounter with the court, an appreciative typology (Matza, 1969) which they maintain throughout their discussion of the defendant's perspective in the key areas of plea, venue, representation, bail and appeal. There is a commitment to represent as faithfully as possible the intentions and attitudes of the individuals themselves. Six main responses are isolated for this classification of strategy: a categorisation as strategists, respectable first-timers, right-assertive defendants, ordinary respondents, passive respondents and other-dominated respondents. In similar fashion in our own study a classification can be distilled from the material presented above and from the more general substance of the

interviews which describes the various attitudes parents adopt as they anticipate their hearing. Each approach represents a distillation of mood, knowledge, experience and individual character, the state of mind which surfaced as the hearing was tackled. The groupings are discrete, not part of any continuum, and were empirically derived from a listing of the dominant characteristics which each family exhibited in their anticipation. Similarities between families were identified and the emergent groups were labelled. There was again the dilemma of the parents as a couple versus the parent as an individual with the potential for conflict between the two parents as they evolved, whether consciously or not, their anticipatory framework. The stronger sentiments were allowed to surface and in this sense the parent that dominated the preparation won out in classification.

Working to this procedure just under a third of the families (31) were classified as approaching the hearing from a positive stance, concerned that the best interests of the child be served and anxious to co-operate to that end. The majority of these parents were able to be fairly relaxed as they anticipated the hearing and some displayed a quiet confidence. The mother for example quoted above who spoke of 'that assurance ... that you look after your kids' would come within this classification. Parents in this group would be prepared to respond readily to questioning and would be eager to contribute anything they thought may be of relevance.

Their anticipation contrasts with that of the second major grouping, the wary first timers (21) plus wary others (7). The anxiety of such parents tends to dominate their mood in the run up to the hearing.

Their lack of knowledge again surfaces and they are in a constant state of speculation as to what might be in store for them. The classification is typified by the mother who explained

'That was my first time and I was a bit wary of what was going on and what was going to happen and things like that ... I didn't really know how they would go about things and what would be said and things like that. I was shaking and I couldn't take much in ...'

It includes a number of those who whilst acknowledging that the social worker had made efforts to explain what would be happening admitted that they had been unable to assimilate the information.

'I would have liked to have known, as I said the social worker explained what would happen but you still wonder, you don't really know what to expect ... I didn't know how we were going to be sitting, I'd seen court rooms and I didn't know if it was like that, I was scared'.

The wariness of those attending a second or subsequent hearing can not so readily be explained as a lack of knowledge. The majority of these 'wary others' however advanced specific reasons for their caution. For some it was the treatment or attitudes which they had experienced at previous hearings, for others it was a feeling of shame at returning again to a hearing. One mother was wary because of her child's unpredictable nature; a stepfather was uncertain how he should present himself. Those who are wary are unlikely to be thinking clearly about their own role in the hearing or about the particular presentation they wish to make; their prime concern at this stage is survival. Five of the parents anticipating their hearing were assessed to be not merely wary but terrified. Several doubted if they could face the hearing and symptoms of considerable stress were displayed. Again one of these cases illustrated the fear of a second referral.

'I visioned me going in yonder on Wednesday with him after being put on supervision the last time, I visioned the worst'.

By contrast ten of the families displayed little emotion prior to the hearing. Their approach to the hearing could be termed passive, absorbing the coming experience into the daily routine apparently with the minimum of disruption. The attitude was matter of fact, non-demanding. The referral appeared to provoke neither great excitement or excessive anxiety.

Very different in attitude again were the families, eleven in number, classified as assertive. In varying ways, each of these families was concerned to ensure that their particular perspective should prevail. Their approach to the hearing was often combative, reflecting in several instances a fairly confident and outspoken character. A number were concerned to assert their rights; the concern of others focused on specific issues. One mother for example wanted to stress at the hearing that the assessment centre being suggested for her son was not appropriate: 'I didn't want him to go to D....., I want him to go somewhere harder'. Another intended to argue the advantages of an intermediate treatment placement rather than accede to a List D placement.

In a number of families (6) assertiveness turns to antagonism and the dominant mood before the hearing is hostile. Interestingly this group includes those with the greatest experience of the hearing, all but one having attended three or more hearings, with one at approximately ten and two at six. Their repeated appearance does not however seem to have increased their liking for the process, one mother

for example having concluded, 'you've no chance with them - they always win'. Another had no longer any regard for the hearing after she had felt provoked to lose her temper by an imputation that she did not care for one of her sons. Obviously such hostility prior to the hearing does not bode well for a constructive debate.

A somewhat different attitude is prevalent amongst a group of five families who have been termed strategists. Each member of this group is motivated in some way to adopt a particular strategy in their presentation to the hearing. They plan what should be revealed and what should be withheld, they anticipate the approach that will most likely achieve their desired end. For three parents this is primarily a decision to restrict their comments to those that will help rather than hinder their child's case, to curb their outspokenness - 'if I'd have said the things I wanted to I'd have been put away - I'd have ended up in jail'. The other strategists were those who approached the hearing having selected a desired disposal for their child, their intent to ensure that this became the decision of the panel. One couple for example had discovered after their first hearing that they would both have preferred their child to be put on supervision rather than discharged. This second time they were determined to ensure that this was achieved.

The remaining four hearings form a residual category. Three can perhaps be termed expectant, characterised by a certain intensity of anticipation, a belief that the hearing would be a major experience with far-reaching implications. As the day approaches the event looms large and the sense of expectancy predominates. The remaining hearing was one

at which the offence grounds were a minor element. The stance of the parents can only be termed desperate, desperate to find some assistance and guidance.

Summary

A presentation of the expectations with which parents anticipate their first appearance at a hearing shows that in the main the dominating mood is of uncertainty and of ignorance. Few parents were able to articulate with any assurance what they expected from the hearing, not necessarily an important consideration unless, as is often the case, a high level of anxiety is thereby engendered. A typology was developed which characterises the frame of mind with which parents anticipate the hearing, a summary of the considerations which occupy them as they prepare for the appearance. In the next chapter we will consider how the actual experience of the hearing compares with these expectations.

CHAPTER SIX : Experience

'I pictured it something different ...'

At the hearing itself the uncertainties which have preoccupied the thoughts of the preceding weeks translate into reality, a reality which can then be compared with the expectations that had developed prior to the hearing. The parent confronts the panel members and over the limited span of the hearing both parties attempt to negotiate a shared understanding of the child's behaviour and of the appropriate responses to it. The substance and style of these negotiations then constitutes for that parent her experience of that particular hearing. If it is her first appearance at the hearing she is likely to generalise the experience; if she has attended several hearings she will compare it with others and produce a composite impression. She may offer first an overall assessment of her experience, a summary comparison with expectations, and may then proceed to the more specific, detailing for example her response to the style of the hearing, her evaluation of the subjects which were discussed, her opinion on the decision that was reached.

First impressions

For many parents the superficial comparison between expectation and reality was favourable: their imagination had created a more fearful alternative and their immediate response had been one of relief. This recollection may of course have been subsequently coloured by more

specific incidents at the hearing, for example a favourable disposal, but nonetheless it was a fairly widespread reaction. In particular it was a characteristic response of those who had anticipated the hearing as wary first timers. Whatever they had conjured up prior to the hearing the actual encounter was considered to be better than they had anticipated. They had found it more relaxed in style and less hostile in attitude than they had expected. They were relieved that their worst fears had not been realised.

'I thought they would have been a lot worse than what they really was. I mean I imagined somebody roaring and saying you'll not do this again'.

'I was worried because you don't know what to expect... I thought they would have been really stern but they were quite nice really, pleasant and understanding. It wasn't too bad ... I think you expect a lot worse'.

Similar sentiments were also expressed by those who had been even more wary of the hearing, those labelled as 'terrified'. They recalled vividly the contrast between their emotions before and after the hearing.

'I was shocked at how it worked out because I had heard that much I was worked up to the nineties so ... I think I cried all day when I came home I was so relieved. I thought they were awful good. They were not what I had been told before I went'.

People have a gut response, a reaction which sets a tone for their more detailed analysis.

At this general level a number of parents were taken aback by the experience of the hearing in that it did not accord with the function or purpose of the meeting as they had structured it. In one case, for example, after protracted argument, the referral was discharged, the mother having argued forcefully that she couldn't accept or reject the

charge until she had heard the evidence of the debate.

Discharging the referral however immediately precluded further discussion, leaving an angry and bewildered individual.

'It was just the attitude of the panel, just I didn't look for what happened ... I thought I was going in to have a discussion about J, about the school, about everything. I didn't realise it was just even for that although I had the form saying about M + S but I really thought well he's going to a panel, he's going to get taken up about the school and everything, get this thrashed out and see what's happening'.

And on a more detailed level the conduct of the hearing may deviate from the pattern which parents had anticipated.

'Well I thought when I was going up to that hearing that they were going to ask me things and I could answer them or I could say to them but I never thought for a minute they were just going to keep talking to T ...'

Such a disruption may well throw the parent, preventing her from pursuing any strategies she may have devised.

Stylistic interpretations of the hearings

A key factor in the response of parents to the hearings is the style in which they are conducted, the dominant tone in which the negotiations take place, and the majority of this chapter will be devoted to exploration of this theme. Many of the comparisons detailed above for example are referring to a characteristic form which impresses upon the parent, an essential quality which we shall term style. Through observation at hearings one comes to realise that very different styles emerge, the product of a range of influences. At the end of each observation an attempt was made to record the various stylistic elements which had prevailed and from those records a dominant

style was identified for each hearing. This by no means implies the exclusive use in a hearing of one particular stylistic element and indeed the pattern identified may be made up of several such elements. Rather it selects from the wide range of elements which may have occurred in any one hearing those which seemed to predominate. For in the majority of cases there was very clearly an identifiable 'feel' to the hearing, a sense of identity which was essential both to the course of the hearing and to the image which was recalled at subsequent interview.

The major source for the identification of style was the summary sheet completed after each hearing had been observed. As outlined in the discussion on methodology (Chapter Three) the introduction of this schedule was indeed a response to the feeling that pervading aspects of style were passing unrecorded. In order to obtain the stylistic groupings a list of characteristics was drawn up for each hearing which summarised the data of these schedules. Similarities between certain hearings were apparent and the characteristics grouped fairly readily into the nine stylistic categories which will be described. Each category is exclusive, the hearing assigned to the category whose style is predominant.

This categorisation of the dominant style was thought to be more useful than the strategy adopted by Martin, Fox + Murray (1981) in their large scale study of the hearings whereby style was recorded through a measure of the frequency with which different aspects of style were employed. Eight main styles were identified at pilot stage and an average of three styles per hearing was recorded. The different styles

identified ranged from 'encouraging, non-directive, evokes participation', observed at 91% of all hearings, to 'sarcastic, contemptuous, suggests child guilty of other misdeeds', witnessed at 22% of hearings. The styles identified were more narrowly related to the actual mode of speaking and in all cases described the style adopted by panel members. The disadvantage of this approach is that the data is merely presented as an aggregate for all hearings and does not allow the allocation of individual hearings to specific stylistic categories as is accomplished here. The dominant style of any hearing in terms of lasting impression is thought to be more useful than the observation that over hearings as a whole certain stylistic elements are more frequently employed than others. Obviously there is a measure of subjectivity in this judgement of dominant styles but it is hoped that the clarity of the process together with the strength of the categories endorses the validity of the inference.

The emergence of these dominant styles is influenced by a number of factors. The hearing is an interaction between three main types of personnel, the panel members, the parents and the child, with social worker, Reporter and any other participants usually taking more minor parts. But the panel in turn is composed of three individuals, one cast in the role of chairperson, individuals who in a small area may be well acquainted and long accustomed to each other's idiosyncracies, but who in a larger city may be virtual strangers, approaching the hearing not only uncertain of reaction from parent and child but uncertain also of the manner and approach of their fellow panel members. Perhaps under such circumstances it is remarkable that a coherent panel

proceeds. Certainly it became increasingly clear over the period of observation that the essential character of any hearing depends to a considerable extent upon the individual and collective experience of the panel members sitting at any one hearing. There came a stage at which on entering the hearing and seeing the panel members present one could predict not necessarily the pattern of questioning, though this also to a certain extent, but more certainly the skill with which the hearing would be accomplished. This particular influence was also acknowledged by a number of parents. They recognised that individual personality and strategy could have a considerable effect both on the conduct and on the actual outcome of the hearing.

'The last two I thought were better than any at all for the simple reason that I think that the people that were sitting on the panel had a lot to do with it because G the middle one that was up that time, he got an awful fright and he's never done a thing since'.

'The impression I got if they'd had three like the chap that was on the end we'd have had an entirely different outcome ...'

The removal of many of the traditional rituals associated with the court exposes juvenile justice to a much higher level of discretion, allows for a greater influence to be exercised by the individual.

The extent to which discussion takes place pre-hearing has recently surfaced as an issue amongst panel members (Hearing, Issue 7, 1982), both the extent to which it is permissible under the Rules and, perhaps more importantly, the extent to which it is functionally desirable. As I was not present pre-hearing I was unable to determine the extent to which a strategy for the conduct of the hearing had been

debated. The evidence of the Children's Hearings Research Project however (Martin, Fox + Murray, 1981) suggests that there was debate prior to one quarter of their observed hearings. Obviously discussion at this stage, if it included an element of strategy, could go some way towards eliminating the hearings at which communication appears laboured, there is little in the way of continuity, and the experience becomes little more than a series of haphazard and somewhat purposeless interrogations.

Mention has been made elsewhere of the discrepancy in power between the panel member and the parent, the panel member automatically assigned power by virtue of her privileged knowledge and of her decision taking capacity. Moreover through successive hearings she should have acquired greater experience of the techniques of debate, a more familiar participant in the expression of opinions and in the negotiations of her own definitions. This is not to imply however that the quality of the hearing is necessarily to be improved by panel members demonstrating a measure of inexperience or anxiety in their ability to communicate equal to parents. It was often evident that a fairly inexperienced panel member was too preoccupied with her own abilities and with her capacity to achieve her own role to be able to assist to any extent in easing the parent or child into constructive debate. That in other instances there may be a deliberate selection of role and style was nicely evoked in the accounting of two parents who recalled,

'Soon after the discussion started it was - they all had roles, each member of the panel had a role to play as it were ... a part to play ... the man was the sort of understanding father figure if you like, the woman at the end she was there understanding the wife's side

of the thing and she was a bit - the part she was playing anyway - she was a bit of a tartar in the sense that punishment was a good thing for them ...'

'I get the idea one seems to take the hard line, I don't know if it's arranged but it was the same the last time, two of them ... seem to try and engage him in conversation and the other one keeps jumping in with sort of bring him back down to earth again, remind him he's not here to enjoy himself, bringing the hard questions, the bad bits all seem to come from the one person more or less'.

The hearing is essentially a negotiation between parent, child and panel member. As in any other negotiated situation the pattern of interactions may be extremely complex, a web of reactions and initiation which draws both on the innate characteristics of those involved and on the dynamics of the evolving situation. The balance between the different influences will vary, one hearing for example highly sensitive to the interests being expressed by parents, another proceeding regardless of their desire to intervene and to pursue perhaps a different strategy. The style which emerges therefore is some total of all these influences, it is an assessment of the dominant appearance which the hearing presents to an observer. In the classification which follows, summarised in Table 6.1, it will be noted that it is not a uni-dimensional classification, one derived from a common base. Thus it includes a category which represents a function (e.g. to probe), others which summarise the stylistic approach of the panel members (e.g. support and encourage, challenge and humiliate), and one which describes the nature of the communication (open exchange). It was felt more important however to reflect the natural divisions into which the hearings fell rather than to attempt to force an overly rigid classification. The style in which a hearing is conducted would

appear to be important regardless of the particular dimension on which it is based. In the discussion below each of the styles will be identified, followed by an assessment of any parental response specific to that particular style.

TABLE 6.1 The style of the hearing

<u>Dominant style</u>	<u>No. of hearings</u>
Supportive, encouraging	25
Formal, ritual	16
Indecisive, amateur	11
Challenging, humiliating	11
Probing	9
Mixed	6
Open exchange	6
Miscellaneous	6
Parent-dominated	6
	<hr/>
	96 *

*N = 96 due to the exclusion of 4 hearings at which the grounds were referred to the sheriff

One of the most important features of these stylistic categories is that in all instances except the last it is the style imposed by the panel members which has dominated. Although not a requirement of the original classification, which in theory could have included a style consisting of for example exhortation by the social worker, its emergence is of major significance in revealing the source of direction for the hearing. In all but a handful of cases the impression created by the hearing is one which has been managed, whether by intent or default, by the stylistic strategies adopted by the panel members. The

importance of this domination should not be overlooked; the way that panel members choose to behave will in the majority of cases ordain the mood of the hearing.

- parent-dominated style

Not all parents are intimidated by their appearance at a hearing. Ninety-six hearings were to be assigned to stylistic categories, the other four, referred to the sheriff, not having extended to sufficient debate. Of these 96, six were in a sense set somewhat apart through being classified as parent-dominated. This label implies that whatever the overall style it was firmly dictated by one or other parent rather than leading the debate as in the more traditional alternative. It should not be assumed however that the panel members are thereby silent; indeed at at least one of these hearings the general level of interaction was extremely high, a ding-dong set of responses to the mother who, with considerable experience of hearings, was very much on the attack, challenging on all fronts, from whether the panel members themselves had children to the value of education. Other hearings in this category however left the panel floundering for a response. One father, flamboyant and irrepressible, delivered a succession of speeches which the panel, and later myself at interview, were unable to stem. Similar non-sequiturs were the pattern of a hearing dominated by the mother and child arguing, the panel seemingly at a loss as to how to intervene. The hearing with probably the most dominant mother was particularly interesting in form, exposing to the observer the negotiation of a balance between the two parties. Seemingly dependent upon whatever mood the

mother chose to adopt there was nonetheless almost a sense of complicity, an agreement that that day the tone was to be lighthearted, 'today we'll not come to blows'.

Not surprisingly all but one of these families had approached their hearing in a fairly domineering mood. Three had been identified in the classification of Chapter Five as assertive, one as a strategist, one as hostile. The mother who prior to the hearing was passive dominated the proceedings not so much by her challenge to the panel but through her constant debate with her child. Moreover as will emerge in the next chapter all of these parents initiated at least one-fifth of the items under discussion.

Given their self imposed domination of the hearing it is hardly appropriate to seek the reaction of these parents to the style. Nonetheless it is interesting to note in passing that a number of parents revealed, often somewhat wryly, a considerable self knowledge of their own behaviour. One mother explained,

'That night you were there that's the first time I've really spoke my mind. Maybe it was the mood I was in, I don't know ... I felt right enough that I was getting a wee bit out of hand and I had to learn to shut my mouth',

while another parent admitted 'sometimes I say too much', his wife endorsing 'he's inclined to interrupt them you know to get his word in'. There was no doubt however in the satisfaction of another parent who as a youth and community worker considered himself at least the equal of the panel members and delighted,

'I think I threw the cat amongst the pigeons on more than one occasion when I answered them in a way they didn't expect and they were lost then ...'

- supportive and encouraging style

The distribution of the remaining hearings between the different stylistic categories is revealed in Table 6.1. The largest group, just over a quarter, consists of hearings where the dominant tone was positive, a concern for the well-being of the child which was pursued in a relaxed and supportive atmosphere. Encouragement and advice were freely offered and the panel members often impressed by their skills, able to calm a nervously voluble mother, able to discuss with sensitivity offences of a sexual nature. The effect was often cumulative, the panel leading off with a statement designed perhaps to enhance self esteem or to underline their benign intent. Very often good rapport was thereby established and under this style many of the most successful discussions developed. In the constructive atmosphere that had been created both parent and child were in many instances able to relax and to discuss more openly their doubts and possible failings. For example a couple of parents were able to admit that, preoccupied by other worries, they may not have been the best of people to live with.

In a number of these hearings the generally supportive atmosphere seemed to stem from the nature of the referral, straightforward cases where no great problems had emerged and a solution seemed readily attainable. Considerable potential was revealed in several of the reports and the panel was anxious to convey this to the child, encouraging where necessary to greater achievement and recognising where appropriate particular honesty or sincerity. In a number of hearings this even led to considerable hilarity, one for example dominated for three-quarters of the hearing by the chairman, a former player,

encouraging the child to return to training with Hibs. A few of the hearings became almost exhilarating, all participants united in an atmosphere of constructive advice for the future.

But the hearings in this category were not only the relatively straightforward. They included a child deemed beyond parental control and another who two and a half months short of leaving school was to be sent to a List D establishment. The strategies pursued by these panel members worked to create the generally supportive stance and allowed them to pursue their concern for the child's well-being despite hostility from parent or child. One chairwoman for example retained an atmosphere of calm and clarity as she attempted to ease and to get to respond a sullen and tearful child and to get through to his proud and defiant mother who was determined that the child should not be labelled a problem. Panel members appeared unthreatened by criticism and were able for example to devote time to listening to a father's expression of his hostility towards the education system.

Panel members attempted in some instances to explain to the parent the logic behind their reasoning. To the mother of the child above referred for residential supervision the stress on the best interests of her son was incomprehensible. Her daughter had attended school without fail but was still without a job. Many around had done much worse and had been walking the streets for years. Angry and bewildered at their seeming stupidity her pleas changed to an outburst on the general injustice of her poverty and of her situation as a whole. Striving to make the decision acceptable the chairwoman emphasised that they were not blaming the child, whose failure to attend school

bordered on the phobic, that they accepted his sincerity in offering to go to school but felt he would be unable to fulfil it. They sought his positive aspects, for example his football, but in the face of continued opposition had to make explicit their powers of decision-taking. Interestingly in this instance the social worker had little time for the sympathy and concern demonstrated by the panel members, challenging the child and pursuing relentlessly his own List D recommendation. By contrast one of the most equal debates in the sense that the hierarchical positions were minimised was in a family where the child was about to leave a List D school. The father, with considerable experience of the system, was able to make suggestions on the detailed arrangements for transition between school and home and was able to speak openly of his own role in home discipline and of his possible mistakes. In turn panel members reciprocated by offering advice on how to pursue his housing problems, recommending the best strategy to gain the attention of the authorities.

- parental response

The parents who experienced this style tended in their responses to one of two positions. Some, perhaps primarily concerned with their own negotiation of the hearing, their own survival and management of the experience, welcomed the relaxed nature of the proceedings and were grateful for the efforts made to put them at their ease. Other parents, however, more preoccupied with the effect of the hearing on their child, were less happy and voiced doubts that the style in which the hearing had been conducted would have sufficient impact on the child. There is

conflict in the parental ideology between consideration of the self and their own passage through the hearing and assessment of the needs of the child and his requirement of an element of deterrence.

Those grateful for the generally enabling atmosphere tended to include those who had been wary prior to the encounter and who expressed relief at the reality.

'I thought they would have been really stern but they were quite nice really, pleasant and understanding. I think I expected something different really but they could talk to you quite easily and ask you questions but I think I was looking for somebody a wee bit worse, somebody who would say what they had to say and that was it but they were quite understanding... they made you feel at ease when you went in. It wasn't too bad ... I felt quite at ease after I was in five minutes'.

Once the ease has been established the hearing can then move towards constructive debate. And the parents who endorse the style tend also to be acknowledging that the prime purpose of the hearing is to help the child, there is the element of therapy.

'I think they are there to help the children and they do as much for them as they can to help them through it'.

'They were pretty reasonable and they got right to the root of what it was and they kept asking the bairn if he understood'.

The following parent recalled in some detail the strategy adopted by the panel in their attempt to facilitate communication,

'They tried to set out to ease the boy, she started out talking about football, I suppose that's trying to get the boy in a receptive mood to talk back and not just sit and freeze. Then they tried to get a bit about his behaviour and his home life ...'

but then managed to admit,

'I didn't know whether I should say it, but I think they could take a slightly harder line now and again'.

Several parents came to voice such doubts over the efficacy of too gentle a style. They doubted whether the panel had left sufficient impact on the child or feared that though sufficient for their own child other children perhaps with more experience of the system might be less impressed.

'It seemed a wee bit kind of comical. I think it was maybe their expressions, I don't know, something like that anyway because two or three times I found myself smiling and it really was quite serious. I suppose they cannot help it, if they've got a kind of nice face, humorous face or whatever - I expected it to maybe be a wee bit more rigid ... it's done enough for our son's case ... but with wee guys that's always in trouble it's certainly a cake walk for them'.

Parents appreciate the dilemma which faces the hearing and attempt to assess the style which has the greatest impact on their child.

'They were fair to ours but they should get onto them more I think, you know they were quite good with them I thought. You don't know whether it's the right way to shout at them or whether it's not you don't know ... There was one of the women there sort of lost her head for a wee minute or two and that did the boys more effect than anything else'.

The other group of parents however, though they may acknowledge the philosophy - 'it doesn't frighten them, although this is the point, they don't want to frighten them' - is nonetheless convinced that an element of deterrence is necessary. They believe that a sufficient fear has to be created in the child that he is dissuaded from further offending, and are unconvinced that the style in which their hearing was conducted is likely to achieve such an end - 'many cases they handle with kid gloves and other methods would prove more effective'.

'The first time I was a wee bit disappointed because I thought they were too lenient with him. Even their tone of voice and the way they spoke to him. It was as much as they were saying to him poor B, you are a silly boy ... he should go to places like that to be frightened out of his wits I would say'.

A natural conclusion for some of these parents is that they would prefer the stylistic characteristics of a court (notwithstanding the absence of a specifically juvenile court model for the majority of Scotland in the past), a preference that will be explored more fully in Chapter Ten.

'There's a lot to be said for a kid of 10 or 11 going off to the old Court with the judge with the wig, it puts the fear of death into them and I would imagine if they ever had to do a census on it they would find out most of these cases do not offend again. That's a matter of opinion ...'

Undeniably however the conciliatory attitude adopted by the panel has not satisfied the needs of their child as they perceive them.

- formal or ritual style

The positive atmosphere of the above hearings contrasts markedly with those encountered under the next two stylistic categories, those labelled as a formality or ritual and those classified as indecisive or amateur. Of the sixteen hearings deemed a formality only two were genuinely eligible for this description, one an extension of the assessment period and the other a continuation until the List D place was available. There were other instances however where the panel also appeared anxious to minimise the debate, seemingly reluctant to explore beyond the basic requirement that a decision be taken. Brought to a hearing on recommendation of a transfer to List D school the chairman, despite

fresh grounds of referral and a mother anxious to debate the problem of glue sniffing, resisted all attempts to broaden the discussion and determined a foregone routine disposal.

Involvement of the sheriff also tended to lead to routinisation, possibly because the hearing was seen as only a part of the total process. In three instances, two remitted for disposal and one for advice, no other problems were apparent and the lightweight approach appeared to suffice. Another remit for advice however was certainly an eye-opener in that I was invited to stay for the deliberation on their recommendation after the family had left. The hearing itself had included several references to the social work report, 'your recommendation which we won't go into', which had scarcely enhanced the openness of the debate. The post hearing discussion however reduced to the level of caricature: 'that man needs putting into a closed institution, teach him how to be a father', 'he needs a good dose of the belt', 'those social workers are always asking for a pat on the head - they're just making fools of us'. How much of this extended exchange of anecdote and insult was for my benefit it was difficult to judge. But the ignorance, even malice revealed was hardly reassuring, though one hoped atypical. It illustrates nonetheless the potential influence of the individual on the structure and style of the proceedings. This same chairman appeared to take pride in the speed with which he could despatch a hearing, cutting off any panel members who seemed inclined to elaboration. A decision would be plucked from the air with colleagues never mind family given minimal opportunity for comment. His unseemly haste was not lost on those at the receiving end

who expressed their dissatisfaction.

'I would have liked ... more said to him about things - I think it was all too quick ... I thought there wasn't enough said or done ... I expected more really than what it was'.

This mother recognised also the restraints imposed on other panel members under his chairmanship - 'I think she'd like to have said an awful lot more than what she said'.

Four of the hearings in this category, three at the same sitting, had been brought by the social worker not in the belief that the child was in need of compulsory measures of care but with the intent that the hearing itself should serve as a salutary experience prior to discharge. For the group of three the social worker elaborated that there had been a certain amount of gang activity in the area, she didn't want the offenders to think they could get away with it, or that others were getting different treatment (sic). In all four instances however the aim seemed to backfire, panel members not sharing in the assumptions of the social worker. They seemed too weary to do more than ask a few routine questions, unwilling to fulfil the scenario desired by the social worker. They were able to ignore a mother's plea for supervision, to arbitrarily placate a child's dread at the prospect of secondary school and were only roused to a token lecture by the social worker's desperate plea, 'I wouldn't like the boy to think that it's nothing'.

At one of the hearings classified as a formality a panel member made his sentiments plain: 'there's nothing much we can do except talk about it a bit, give the boy a warning'. His justification appeared to

be that the boy was moving to England though why this should preclude or indeed not encourage a full exploration of the case was not clear. That the boy was addressed by the wrong name by one panel member throughout the hearing (who simultaneously denied it) did not enhance this mother's confidence. More importantly however the confusing (in the sense of non-conforming) ideologies that may be presented by panel members were revealed by the implication from two of the panel, one a former magistrate in England, that 'down there was the real thing - if you've thought the panel a soft option, going to England there's no chances'. Such a sentiment hardly presents the panel as a problem solving body attentive to the child's needs; rather it suggests a philosophy redolent of traditional deterrence, even retribution. This is a characteristic common to many of the hearings in this category; the effort was not made to individualise the case and the mood was rather one of reduction to a routine process.

- parental response

Many of the comments made by the parents in this group would appear to endorse the assessments made during the observation: they also detected a 'couldn't care less attitude', and like the mother above felt that the commitment to a full discussion was less than wholehearted.

'They don't really have any conversation with you or nothing ... they're not really interested, it's just another case to them ... it's just like automatic, next one please, that's the opinion I get ...'

One father attempted to account for the apparent discrepancy between his expectations and the panel's lack of interest.

'Not much discussion really, I felt that, there wasn't much discussion about his problem but they weren't really dealing with his problem they are just trying to see a way out of it, to get somewhere else to deal with it'.

There was a common feeling of anticlimax, a suggestion that potential opportunities had passed unnoticed - 'there wasn't enough said or done'. Perhaps therefore it was through default that a number of parents echoed the preferences of those in the previous category who felt that a greater deterrent was necessary.

'They've been OK. We've never found them nasty and we've never been scared to go. It seems a wee bit too easy. It wouldn't give a laddie a fright going in front of them. They go in front of them and they get treated very very easily, not like going in front of the sheriff or even Inspector of Police or someone. I'm quite happy with everything they've done so far but I feel they've been sort of told by the social worker and is it the Reporter what they're to do and say'.

'It was alright but I think they let them off too easy they are not really frightening them or giving them punishment. They got a talking to and got off with it, till the next time. I think they should really give them, not a severe punishment, but something that will make them not to do it again. If they are just getting a talking to I don't think it will work'.

Again however there was evidence of considerable reflection behind the ideological stance, witness the parent who paused for reassessment,

'The laughing and joking, it was all very cosy, but the kid is not going to remember that, he'll say oh this is alright, whereas I'd rather he had went in there and came out white in the face and say well I'm not going back there ... But then I can see their point too they are using reason instead of the heavy hand, if it will work 9 times out of 10 maybe I don't know'.

Those who had been referred back and forth between panel and court tended to be somewhat irked by the ritual.

'I think they should have more authority, I mean I was up there yesterday, well to my point of view they didn't really care because it was going in front of the court'.

It was often at considerable cost both in actual wages foregone and in inconveniently long hours spent waiting at the court, and seemed to parents unnecessarily bureaucratic when for example a disposal was adjourned because the co-accused was not present or when the sheriff having received the advice he had sought from the panel merely referred the matter back again for disposal. A number of parents however had a more fundamental objection to the split responsibility, a belief for example that 'any child under 16 should never be taken in front of a court, any court of law'. The mitigating factor of the child's age is absolute and should put him beyond the jurisdiction of the court, The contamination of the court is feared and it would be considered preferable if the discretion of the hearing could be extended.

'When they go to the court there they seen a lot of hardline criminals and that, they seen it because they sat and looked out the window, they were all lined up outside, the older ones that were ready for time'.

For many parents the split responsibility between the courts and hearings was not a salient issue, their experience being confined to the hearing. There were those however who were anxious to discuss the dilemma, several of whom expressed unease at unfettered powers being given to the relatively marginal panel member.

'Well I think the court would be more able to deal with a big offence like that. You wouldn't expect three not too experienced people, obviously they've not all been in it since 1971, you wouldn't expect them to cope with anything like that. You need a jury when it's a big case like that. It's terrible to be responsible for locking somebody away for six or seven years you

would need to have it well discussed and have lots of people's opinions on it, I don't think just any one man, or three men could do that'.

A somewhat different concern was that expressed by parents who had experienced the split responsibility not because of cases which fell under the Lord Advocate's Rules but because their child had rejected part or all of the grounds of referral. Some parents were merely uneasy at the delay and uncertainty which was a necessary accompaniment of the referral to the sheriff, but one or two were concerned with what they considered to be more fundamental issues of justice, balking at the necessity of establishing innocence before the sheriff.

'If the child was charged on one particular offence and went before the panel he has no defence against this sort of going before the sheriff's court which I think is a very very bad system because if a child can prove he's innocent he has to go to the sheriff's court to be proved innocent which defeats the object of having a panel - they're guilty until proved innocent as far as the panel's concerned, they can only go there and admit that they're guilty ...'

A small number of parents voiced the dilemma in which the panel's lack of judicial powers placed them, uncertain whether they should advise their child to cut his losses and plead guilty in the hope of a rapid discharge rather than prolong the uncertainty through a possible referral to the sheriff.

- indecisive, amateur style

Although parents might question panel members' commitment, the hearings classified as a formality were nonetheless at times pursued with considerable vigour, if only to advance them to a conclusion. There was another group of hearings however in which very often any sense of purpose appeared to have been lost. The approach emerged as indecisive

and amateur, a tendency to avoid confrontation and to engage in only superficial exploration. At times this may have been the result of inexperience on the part of panel members and on occasion it was evident that a particular combination of members failed as a coherent whole. An indication of inexperience was often an almost pathetic anxiety to display local knowledge or to stress some shared experience with the family. Generally unsatisfactory, these hearings were characterised by leading or rhetorical questions, by a tendency to non sequitur, and by a characteristic failure to follow on from initial enquiry to a full exploration of implications. At times the style approached the Kafkaesque, each operating in her own small world, giving the child no time to answer one question before another panel member addressed a different and unrelated issue.

PM1. Are there other problems at school

Ch. Er

PM2. What are your interests

The confused jumble of questioning, a combination of suggestion, explanation and speculation, led one mother to exclaim, 'if only they could ask you the question straight'. Not surprisingly the impression gained from such hearings was often ambivalent, different messages tending only to confuse. In a couple of instances the hearing was characterised by long rambling conversations from which despite the considerable length it was difficult to pinpoint the content. One hearing in this group was not only stylistically indecisive but also procedurally questionable. Not only was the family told they had no right to object to my presence (should they so have wished) but it very soon emerged that the grounds of referral were very dubious, the child

having walked away from the scene of the alleged offence. Despite the efforts of one panel member to question their right to intervene the hearing proceeded.

- parental response

The response to this stylistic device (or non-device) was mixed. About half of the parents felt that they had received a fair hearing and offered no particular comments on the style in which it was achieved. A couple were again concerned that the element of deterrence was lacking - 'it gave me the impression that it didn't sink into him what it was' - while a third had felt that the panel's manner was a little strict for a first offence. There were a few comments however which referred to specific stylistic elements. One father for example spoke of the weakness of the panel which displayed a lack of authority and therefore of conviction. To be at ease parents require that the panel members themselves are assured and confident in their chosen role.

'The lassie in the middle that was doing the chairwoman was embarrassed. She was leaning over backwards to say that she wasn't authority whereas she is in fact, no matter how informal it is, she's got to accept the fact that she is and she was leaning over backwards to tell us no not really I'm just the nice person that's trying to help'.

Another parent, in similar vein, complained that the debate at the panel had been 'only a light discussion like I'm having with you now'. As with the previous category there was underlying unease at the lightweight nature of these panels, a latent awareness that their conduct was less than skilled.

- challenging and humiliating style

Indecision and uncertainty are hardly the characteristics of the next stylistic category. This embraces eleven hearings in which the dominant goal appeared to be to challenge or to humiliate, usually the child, though in a couple of instances the parents also. An overtly critical stance was adopted and scorn, even degradation was a common feature. The hearing was often composed of a sequence of tirades against the child and his general attitude or behaviour, his lack of effort and his general worthlessness. Their purpose it seemed was to expose the child to the maximum of ridicule, to impress upon him their disgust at his actions. In a number of cases the aim seemed to be to break the child down, to see if from some depths a hint of guilt or remorse could be extracted. More often however the child was reduced to the brink of tears, at which point the panel members would rapidly retreat. In a couple of instances there again seemed to be the idea of the hearing as a salutary experience prior to discharge, an attempt through vigorous criticism to create a lasting imprint. In this sense the particular stylistic device was being adopted as a medium for deterrence. Even if the parents were not themselves the subject of the criticism and derision they were usually afforded little more than token attention: they were not to be allowed to interfere in the general air of condemnation. Indeed one panel member subjected a father to a lengthy harangue, only to repeat 'I'm not bullying but ...' There was little room for manoeuvre or compromise. The chair in this case adopted from the start a very domineering and challenging stance, a brusque 'we know best attitude' which she insisted on maintaining

despite the father having already pursued the traditional palliatives she was recommending - he'd been to the school, seen the head teacher.

It was often difficult to dissociate the sentiments of this group from a traditional retributivist doctrine. Indeed it is within this category that the regrets at the inability to punish were expressed. The child could be taunted with his misdemeanours and there were several diatribes against the horror of vandalism and those who perpetrated it. Impatience increased if the child appeared unresponsive: 'Madam Chairman, I think we should just stop this and send him to List D school'. In a couple of instances the authoritarian stance seemed almost to get out of control, a panel member swept away on a tide of aggression and condemnation, particularly if she had a sympathetic colleague. Thus one hearing became a power struggle between two panel members and the remaining panel member and social worker, the point of debate the choice between one of the most 'progressive' and one of the most traditionally 'hard-line' List D schools. For those interested in the ideology of panel members it provided a classic illustration.

- parental response

There was a fierce reaction by the majority of parents against the tone of these hearings. They felt that shouting and bawling at the child achieved nothing, indeed it was merely a repetition of the parents' own initial reaction.

'They're supposed to have patience, alright, the children have done wrong, some more than others, but to start and shout at the kids, we could shout at our own children, we could shout at anybody else's kids, so what is the point in going in front of a panel and having somebody shouting back at you. They've already had that so to me any more shouting is not going to help them any in the least'.

Neither child nor parent is likely to respond to such an onslaught and the effect is merely destructive, a complete antithesis of effective communication. One panel member, who had lost his temper, was considered totally unfit to sit on the panel. Several parents felt that the panel were not prepared to listen to their contributions - 'I could have said more but I felt I was wasting my time as far as the panel was concerned', or alternatively that it was probably wiser to remain silent - 'You get the feeling that they're down on you that the less said is best sort of thing in case you make it any worse for P'. Interestingly however despite the strength of the attacks in many of these hearings several parents commented that they did not feel that there was a lasting impact. For those in search of deterrent punishment humiliation at the hearing was neither a sufficient form nor an appropriate substitute.

'If they had brought him in for some punishment I would have been quite happy instead of just bawling the boy down and in my honest opinion I don't think it did the boy one bit of good ... if they think they can go down to a panel and they are more or less getting away scot free, just somebody giving them a few harsh words, I don't think that is going to stop them in any way'.

- probing

The remaining sizeable stylistic category reflects a group of hearings (nine) where the primary activity was to probe, an attempt at the more simple level fully to expose relevant criteria, at the more complex to achieve a greater understanding, perhaps of the child's motivation or of family dynamics. Such a stance accords well with the interpretation of a welfare type ideology; individualising the different needs of each

child. These panels tended to be conducted by members who demonstrated considerable assurance, in the majority of cases striving to get a response from an uncommunicative child. Indeed in two of the cases the child's silence was so unrelenting and his general demeanour so devoid of affect that the panel members instigated an immediate search for an assessment place. By contrast another hearing in this category witnessed a relaxed debate which sought, with considerable respect, to explore the two sides of a boy's personality, his caring help in a nursery yet his desire to present a 'tough guy' image. The heritage of publicity obviously weighed heavily on the chairman in this case who felt compelled on discharging the disposal to comment, 'I suppose this is the panel being soft but I feel the child is responsible'. In a couple of cases the focus was more firmly on the parents, one a mother who was the co-accused of her daughter in the shop-lifting offence, another a father who presented as extremely tense and upset.

- parental response

Interestingly the most specific of the responses by parents in this group was one which complained that the panel had not probed sufficiently, that they had sped too hastily to a conclusion.

'Everything is just on a level basis, they don't go underneath to find out anything, I mean they are just skiffing the surface. To me they just couldn't care less, they are just wanting him in and out as soon as they can'.

Another parent however endorsed the style as it had affected her and her child.

'I thought they were rather nice, I really did, I think this helped me a great deal, sitting and talking about one thing and another ... I think they're trying, when they're sitting there and talking to them just natural, they're not getting you on what's the word - the kids aren't getting all up on high doh like the judge, stiffen up, get frightened'.

The other responses tended to the more universal, a reaction to the general rather than specific nature of the hearings, their general applicability as a medium of juvenile justice. As in other categories there were those who endorsed the proceedings, others who were concerned that there was insufficient impact on the child. The exploratory nature of the panel was too sophisticated for a child; a night in a cell might be more appropriate.

'I feel it's too casual, although me and his Dad didn't treat it lightly, I feel he's well he's only a boy, I don't think he realises he's done wrong ... even if they'd locked them up for the night and given them the fright of their life it would have helped'.

- other stylistic categories

The above categories embrace the stylistic characteristics of all but eighteen of the hearings. Those that remain are perhaps less definitive in nature, exhibiting a range of stylistic devices. Six of them appear to blend criticism and lecture with a desire to understand and to communicate and have therefore been labelled 'mixed'. The pattern may emerge from the use of a variety of tactics in an attempt to advance the hearing or may reflect a somewhat different response to parents and to child, perhaps encouragement of the former, lecturing of the latter. Indeed at one hearing in this group the balance became the father and mother united with the panel 'against' the child. At another hearing

the mixed pattern probably resulted from the dual nature of the hearing, embracing both an offence by the child and the future arrangements, with both parents dead, for his care.

The characteristics of the other group of six hearings as 'open exchange' suggests no particular dominating features. And yet in a sense the existence of the free interaction is indeed significant, a fulfilment of hearing prototype. For four of the hearings it is perhaps more of a residual category, efficient debates with no particularly strong distinguishing elements. In the other instances however the label is much more positive, parents participating at the highest level and pursuing in one instance a lengthy exposure of the values of education and of their hopes for assessment. This hearing in particular was noted for a willingness to face up to the confrontations pursued by the father and for the quality of the debate that thereby ensued.

The hearings not embraced by the above categories have been assigned to a miscellaneous group, no particular style being dominant. Three of them in fact were preoccupied with discussion of the disposal, one a hearing which argued the competing merits of a placement at a senior List D school and at home, another a similarly lengthy examination of the opposing attractions of a List D school and an I.T. scheme. The first of these debates generated a fairly lengthy comment from the mother on the details of the discussion through which the decision had been attained, a comment which highlights the vacillating nature of this particular hearing.

'I can't say I was overjoyed at the way they conducted it because one minute they were talking about him going home, next minute somebody was saying he would be better at school then somebody else was saying he would be better at senior school and I was getting like him, very confused about it and I just said to myself it's like a carrot dangling in front of a donkey he's either going to catch it or he's not ... the result to me was good although it wasn't got the way I would have liked it to have been discussed'.

Discussion of offence details, not in themselves atypical, formed the substance of one hearing, rendering it a somewhat unsatisfactory occasion which left the parents with little sense of achievement, while at another both parent and panel spent a long time striving for an explanation as to why a previously trouble-free child should suddenly commit a spate of seventeen offences. The search for explanation was recognised by the parents who detailed the benefits of the hearing rather than the court in this particular respect.

'They were more concerned with why he did it and when he did it and how he did it. They were more concerned to find out the reason. If he went to a court they're not caring about the reason for it, they couldn't care less, all they want to know is what he's done and if it's bad enough you're away ...'

Summary

A number of different stylistic categories encountered in the hearings have been defined and the response of parents to the operation of these different styles at the hearing has been monitored. It is interesting to reflect on what may be the particular correlates of the different styles. Various factors that might be associated with the categories were explored, including the number of times the child or family had appeared before a hearing, the attitude with which the parents

anticipated the hearing and the disposal which was made at the close of the hearing. There seemed no ready association however between any of the factors isolated and the particular stylistic responses adopted. It seems more likely that the dominant style which emerges at any one hearing is some mesh of the individual panel members' ideologies, together with an interpretation by the panel of the various reports, giving a 'reading' of the situation. In the next chapter we will consider in more detail what is actually discussed at the hearing, and by whom, and will look to the correlates between style and participation.

CHAPTER SEVEN : Participation

'I wasn't able to express myself as I should have
or could have'

The prescription of Kilbrandon

The importance to Kilbrandon of enlisting maximum parental participation in the hearing process has already been revealed in Chapter One.

Working from his basic premise that the most powerful influence on the child lay in the home, he considered one of the major failings of the traditional court was its inability to grant any active role to the representatives of that home, the parents. They were reduced to the status of 'passive spectators' (para. 38), witnesses to a succession of decisions in which their own particular role was rarely specified.

This traditional stance could not be maintained, the Committee argued, if their commitment to a policy of 'social education' was to be realised, parent and child together to be shown how the solution to their problems lay in their own hands. The essential task was to enrol the parents as active participants, working towards the best interests of their child.

This philosophy demands of course a long term commitment, one which permeates the daily pattern of family life and one which it is beyond the scope of this present research to evaluate. Our more modest concern is with the implications of the philosophy for the forum through which juvenile justice was to be dispensed, the hearing itself. Central to the new panel structure was the belief that it should allow 'full, free

and unhurried discussion' (para. 109), the decision on the child's future to emerge 'after extensive consideration and discussion with the parents' (para. 76). Active participation by the parent in the proceedings was to be encouraged, indeed sought, an element which was given formal recognition in the subsequent White Paper, Social Work and the Community (1966),

'An essential feature of the new system is that parents should be encouraged and if necessary obliged to involve themselves personally in consultation with the panel' (para. 70),

and which was codified in the Rules of Procedure

'the children's hearing shall ... endeavour to obtain the views of the said child and his parent ... on what arrangements with respect to the child would be in the best interests of the child' (17(2d)).

The meaning of participation

The statements of Kilbrandon present the idea of parental participation in the hearing as an attractive and constructive principle, one which improves on earlier practice and one which is but a part of the wider commitment both to a family perspective and, through the use of lay representatives of the community, to participatory decision-making. But the use of the term participation has unfortunately acquired something of a 'catch-all' status, a shorthand for a general good whose more specific definition can be neglected. It is necessary therefore to examine more critically the assumptions and values embedded in this widely invoked concept.

Over the last fifteen years or so ideas of citizen participation have been increasingly evident in the broad field of social welfare, a

reaction perhaps against the apparent inflexibility and insensitivity of mass bureaucracy. The initiatives have included tenants' co-operatives, neighbourhood action groups and claimants' unions, different interests united by a common desire for a greater involvement in issues directly affecting their lives. More specifically however the movement has also included a number of initiatives sponsored by the Government itself, of which perhaps three are the most notable, the proposals included in the Seebohm Report (1968) where citizen participation was to be a key component of their community based service - 'the maximum participation of individuals and groups in the community in the planning, organisation and provision of the social services' (para. 500), the opportunities for public participation in the planning process advocated by the Skeffington Report (1969), and the Community Health Councils established under the NHS Reorganisation Act of 1973.

The mechanics for participation in any service may of course vary. Seebohm for example distinguished three possible alternatives, participation through pressure groups, participation in the decision-making process and participation in the actual provision of services, but his proposals for implementation were few and the developments have been fragmentary in nature. Likewise the vigour with which the proposals of Skeffington are pursued still rests with the professional while the Community Health Councils are only consultative in nature, with no power over decision-making and dependent on the tolerance of the health authority. These official initiatives tend moreover to assume a consensus of interest, both within the public itself and between the

public and the decision makers. The essential problem, as revealed in Skeffington, is of ensuring adequate communication rather than negotiating fundamental disagreement.

'We see the process of giving information and opportunities for participation as one which leads to a greater understanding and co-operation rather than a crescendo of dispute' (para. 20).

There has in fact been fairly widespread criticism of the Skeffington proposals, suggesting that the concern was not so much with democratic principles of participation but a desire to remove the accumulation of objections which were blocking major development plans.

'The image of participation as a miracle ingredient - which cleanses the system of inefficiency, promotes rational planning and resolves conflict - was never far from the surface' (Jones et al, 1978:100).

The seductive nature of participation is perhaps one of its most dangerous features. It appears to represent all that is good in terms of participatory democracy, a response to a belief in equality and a conviction that the individual should have a say in the issues which affect her. It appears to offer a new accountability, an opportunity to exercise new rights and responsibilities, and an opportunity to demand an active role in decision-making. But very often the promise is an illusion, a sleight-of-hand whereby official policy can be adopted.

'Participation has a masking function in that it appears to acknowledge and provide for participatory democracy while in fact 'educating' clients towards professional views' (Bailey, 1975:39).

The essential determinant is the location of power, the centre of control, and, if there has been no redistribution from the centre to the periphery, there can only be what Pateman (1970) has termed 'pseudo-

participation'.

'Participation is thus a process of cooling-in people to decisions which have in fact been taken in advance, and which, apart from small, even derisory points, will not be changed' (Rose + Hanmer, 1975:33).

Bailey (1975) indeed would maintain that the routine definition of participation has become such that the prime importance of control has been eclipsed, no longer even a possibility on the agenda.

'The taken-for-granted meaning of participation which is developing now is that which builds control out of the picture entirely and substitutes at the most education and at the least a pretence at consultation' (p.39).

Before attempting to locate Kilbrandon's views on the nature of participation, mention should be made of perhaps one of the most lucid presentations on participation, that of Arnstein (1969). Arnstein proposes a ladder of citizen participation, each rung on the ladder representing a gradation in the level and degree of consumer involvement. The first five rungs on the ladder signify various degrees of tokenism and only on the upper three is true participation attained. Rungs 1 and 2, respectively manipulation and therapy, are levels of 'non-participation', and are concerned to educate or cure the participants. At levels 3 and 4, informing and consulting, the public is given a voice but its views are not necessarily heeded. Level 5, placation, allows participants the right to advise, but the right of decision making remains with the authority. At level 6 partnership is achieved, characterised by negotiation and bargaining, at level 7 delegated power and by level 8 there is citizen control.

There are relatively few statements in the Kilbrandon Report which

elaborate to any extent on the participatory role envisaged for parents. Only a small number of references provide clues as to what Kilbrandon himself considered to be an appropriate level of participation. The distinction has to be made again between the measures to be adopted in the treatment process subsequent to the hearing and the strategy to be pursued during the hearing itself. By its very nature the social education to be delivered by way of compulsory measures of supervision implies limited choice to the parent in the nature of their participation. Despite Kilbrandon's reference to a 'persuasive and co-operative basis' it lies at Arnstein's level of 'non-participation', a form of guidance through which

'the individual parent and child can be assisted towards a fuller insight and understanding of their situation and problems, and the means of solution which lie to their hands' (para. 35).

The tone of the argument is that the failure is likely to be relatively straightforward, an omission or shortcoming which can be fairly readily rectified. A similar optimism extends to the discussion of the hearing procedure itself. Although there is the allowance for the appeals procedure the decision-making process is not viewed as problematic. Both paragraphs 76 and 109 assert that following the extensive discussion it will be 'apparent to all concerned' what is in the best interest of the child. There is an air of confidence in the assertion that in many cases

'the panel's decisions will be arrived at after extensive consideration and discussion with the parents, as a result of which it would be apparent to all concerned that the measures applied were determined on the criterion of the child's actual needs' (para. 76).

Indeed in the firm assumption of increased understanding and consensus which surfaces again in para. 109 there is a strong echo of the educative role of Skeffington isolated above (para. 20).

'The questions arising are in our view likely to emerge most clearly only in an atmosphere of full, free and unhurried discussion, as a result of which the underlying aim and intention is made apparent to all concerned' (para. 109).

At this stage however it is perhaps more appropriate to start examining what actually takes place at the hearing, and to seek the reactions of the parents themselves to the degree of participation which they are afforded.

The hearing as a social construct

The situation at a children's hearing provides a supreme example of the socially constructed nature of reality. A number of individuals, representative of specific functions, assemble in a given place and on the premise of the child having committed an offence proceed after a period of discussion to a decision supposedly determined in the 'best interests of the child'. The sentiments of the different parties as they approach the encounter may vary widely. Official guidelines on the conduct of the hearing are few (although this could change if training facilities were to expand) and the legislation is permissive, making only the most general of procedural demands. The best interests of the child must be determined, the views of parent and child must be sought, and the substance of reports should be disclosed, but these requirements leave wide open to discretion the manner in which any individual proceeds. And as the research of Martin, Fox + Murray (1981)

has revealed, even these limited requirements are neglected, over a third of families for example not being given any explanation as to the purpose of the hearing, only a fraction of hearings witnessing anything that could amount to disclosure of the contents of reports. It remains with the individual therefore to determine the nature of the reality which she negotiates for any given encounter.

But though the legal constraints may be few there are other influences which impose patterns on the exchanges which occur at hearings. One characteristic in particular is fairly crucial in determining the identity which a hearing assumes: not all the participants are equal in the extent to which they can direct the proceedings. The hearing is a social construct but it develops between parties with differential access to the social stock of knowledge and with varying experience of the skills which are of value in that particular form of encounter. Moreover the very purpose of their meeting, to determine an appropriate disposal, dictates that the parent cannot forget that the power of the hearing members is not merely symbolic but actual.

As we have already explored in Chapter Five the parent is likely to have assembled a set of typifications which govern her expectations as she approaches the panel. Panel members likewise will be working to a set of assembled hypotheses and prejudices, both generalised from their accumulated experience at hearings and specific from their readings of the reports. Inevitably, whatever their experience of hearings, the family is at a disadvantage. They cannot participate in the discussion as equals because they are vulnerable to whatever provisions the members

at the hearing may choose to make. Moreover in the majority of cases not having access to the report they are immediately handicapped through a major discrepancy in the distribution of knowledge. Symbolically, Fox (1974b) suggests, the inequality is emphasised and communication further inhibited by the pile of official documents on one side of the table while the other sits 'unarmed'. Parents may not have the courage or the ability to speak in a group situation or, to anticipate comments made later at interview, they may be wary of revealing too much or of handling the discussion ineptly. They may indeed be merely bewildered, restrained from contribution through lack of understanding. As she left the hearing one mother sighed, 'I just can't follow them, if only they'd ask you the question straight, but it's such a muddle', a sentiment echoed both by her son who during the hearing had had to apologise 'I'm sorry, I just don't understand what you're talking about' and in this instance (though more silently) by myself.

The strategy for participation

It becomes evident that Kilbrandon's confident assertions on the ease of communication between the parties to the hearing may have been misplaced. In the eagerness to explore and to implement the new proposals inherent difficulties may have been evaded. Certainly the opportunity for participation by all parties continues to be stressed as one of the distinguishing and advantageous features of the hearing system (for example May, 1977; Parsloe, 1978). In lay discourse on panels it is very often this participatory characteristic which is cited, this rather than any difference in ideology being the premise on which distinction from the juvenile court is drawn. Contrasts are drawn with the court and

its institutionalised rituals which atrophy the ability to participate (Carlen, 1976). A bewildering set of orders are issued, stand up, sit down, be quiet, and the judge mumbles away, his statements only half heard and full of unfamiliar words.

'An inexperienced defendant is at a disadvantage in court even if well educated and articulate but for those who have little education, who are scared, nervous and unable to express themselves in the kind of language they believe is expected in court, the handicap can be crippling, particularly if they wish to deny the offence or to plead mitigating circumstances' (Dell, 1971:17).

From time to time discussion takes place on conditions likely to induce maximum participation at the hearing and stress is laid on the importance for panel members of the development of communication skills, the facility to put families at ease and to establish rapport. Bruce + Spencer (1976) for example highlighted from their overview of key participants the inhibiting nature of excessive formality.

'Formality frequently inhibited rapport and this in turn inhibited a proper understanding of the dynamics of the family. One aspect of the formality of the hearings was their consciousness of being the representatives of society and the upholders of the law. This rigidity made them seem lacking in understanding and in realism in the eyes of the client, thereby reducing rapport' (p.102-103).

The importance for effective communication of the first five minutes of the hearing is stressed by Hassan (Focus, 10 - 1975) who suggests that simple gestures of welcome and introduction could go far to reducing tension, promoting a relaxed and accepting atmosphere in which morals and values can be openly discussed. Relatively simple measures but they are by no means widespread.

'At one hearing we attended, mother and son arrived late. They said they were sorry and their breathlessness proved that they had not been wasting time ... Nobody rose to greet them, nor were they given time to get their breath back ... A chance to reduce tensions had been missed' (Bruce + Spencer, 1976:113).

There has been considerable debate over the effect of seating arrangements on the ease of discussion, again a concern to break down the inhibiting form of institutionalised patterns. The traditional model is for the family to sit across a large table from the panel members with the Reporter and social worker to either side. Observers such as myself were generally positioned, dependent upon space, away from the table in a suitably unobtrusive location. Certainly this was the model adopted for all the hearings currently under discussion. Variations of seating however, at least in the early days of the system, have been recalled by one panel member.

'There is the eternal image of the 'them' and 'us' confrontation across a large table. I recollect hearings around coffee tables - the discussions were better and involved all present more readily. I recollect hearings where the family did not sit adjacent to each other, but in an informal setting faced each other, and we had the astonishing experience of witnessing teenager and parents really speaking to each other and discussing their problems. Should not all hearings be of an informal nature? Is this not the spirit of Kilbrandon?' (Page, Focus 3 - 1974).

Yet when at a panel summer school Ashley (Focus 11 - 1975) suggested experimentation with table and seating arrangements reaction was unfavourable. Few felt it was significant and Tayside's chairman considered it 'postively trivial'. Yet as more than one commentator has stressed (for example Carlen, 1976; Emerson, 1969) the symbolic intent of interaction ceremony and of specific locational features can

be considerable.

Such detail may be important but only if it is acknowledged within the context of the broader structural constraints that are imposed by the essentially unequal status of the two main contenders in the hearing process. It is these constraints which have tended to be overlooked in the generally acclamatory welcome afforded to the new system. They should be borne in mind therefore as we move toward an assessment of the actual extent of participation in individual hearings by the different parties.

Barriers to communication inherent in the situation may be broken down to a greater or lesser extent by the skill of panel members as they direct the hearing. A simple statement for example may at least make clear that participation is in order. An effort was made to record the occasions on which panel members specifically took time to verbally encourage the family to participate. Although this excludes of course more indirect attempts to induce participation it is perhaps significant that at only thirty six of the hearings was such encouragement observed. And on four of these occasions it took the form of exhortation directed towards the child. But a free and open debate has to be sustained by more subtle techniques. A skilled panel member may be able to coax the reticent into expressing their opinion or may be able to convert potential hostility into constructive debate. She can also however be less constructive. By her control over the flow of information, in particular that contained in the reports, she can reduce the family to bewildered onlookers, witnesses to a Kafkaesque debate in which they appear the principal subjects but in

which they are unable to play more than a passive role. The following exchange, for example, illustrates the use of the power lying in undisclosed reports.

- PM. Well, S, you've got a bit of a reputation for getting into trouble
 F. He's got no reputation at all
 PM. We have two reports
 F. - and one he's not accepted so that's just the one
 PM. Reports, not charges ... I live in X it may surprise you, we hear what goes on in the community
 F. - and what have you heard, I've not been told
 PM. Let me finish, mischief, not necessarily really bad. We know - now, if we can proceed ...

Such an attitude may, as in this instance, rouse the parent to respond, but others may be left overwhelmed by their ignorance of the agenda. It was not uncommon to observe a lengthy debate centred on the school report and its contents, a discussion from which parents, unaware of the substance, were virtually excluded. Panel members may also limit the extent of participation by specifically excluding or devaluing a family contribution. One social worker for example asked through the chair that the opinion of the child should be sought as to whether he would prefer a male or female social worker. 'Oh no, responded the chairwoman, 'the boy's too young, it's no difference to him'.

Levels of parental participation

Against such a background of constraints it may be surprising that any interaction at all takes place between the different parties to the hearing. Given the primary concern with parents, two measures were taken in an attempt to reveal the extent of their participation. The first attempted some summary indicator of the overall level of contribution by each parent to the hearing. The second sought to

determine to what extent parents were actually initiating discussion, rather than merely responding to set questions.

The first assessment, of overall participation, was a subjective impression, recorded after the hearing, and was made for each parent independently. The results are summarised in Table 7.1, the data excluding four hearings in which the grounds were denied, leading to referral to the sheriff (3) or discharge (1). Although there was a tendency for assessments to be relative to each hearing rather than an absolute between hearings a degree of overall consistency was the aim. Three levels of participation were admitted: 'considerable', when the parent would be taking an active and apparently unconstrained role in the discussion, 'moderate' in which the role was rather more routine with little by way of elaboration, and 'little' where the level of exchange was fairly rudimentary, offering little to the panel, at least verbally, to assist them in their assessment. Referring to the table, approximately half of parents (49.6%) were judged to have participated to a moderate extent in the discussion of the hearing, under a quarter (22.2%) to a rather greater extent, and over a quarter (28.1%) more minimally. Divided by sex, the fathers showed a more even distribution in the extent of their participation, both more voluble and more silent, while over 55% of the mothers were placed in the moderate category.

TABLE 7.1 Overall assessment of parental participation in the hearing

	Father		Mother		Other	Total	
	No	%	No	%		No	%
Considerable	14	27.5	16	19.8		30	22.2
Moderate	20	39.2	45	55.5	2	67	49.6
Little	16	31.4	20	24.7	1	37	27.4
Virtually none	1	1.9				1	0.8

Looking at individual hearings, there were twenty seven hearings at which one or other parent, or in three cases both, were assessed as having made a 'considerable' contribution. Indeed six of these hearings as discussed elsewhere in the classification of stylistic aspects of the hearings were judged to be completely parent-dominated. All but one a second or subsequent hearing, the areas of debate tended to be selected by the parent and their initiative tended to direct the hearing. Nonetheless only in half of these cases did the parents consider that they were able to say all that they had wished. Amongst this group as a whole however the proportion was higher, nineteen out of the twenty seven reporting at interview that they had felt free to participate, although one or two questioned whether what they said was actually heeded. It was thought possible that those able to participate most might be those with the greatest experience of the hearing system. At only nine of these twenty seven hearings were the parents appearing for the first time, compared to 46% for the hearings as a whole, suggesting therefore a tendency for the more voluble to be those with some prior experience. Stylistically this high participation group tends (excluding those already noted as parent-dominated) to the more constructive classifications, nine of the twenty seven being characterised

as supportive and encouraging, three as an open exchange.

It is suggested however that additional distinguishing features of this group appear as a mix of characteristics specific to the hearing and factors which relate to the parents themselves. For example in addition to the six hearings classified as parent-dominated there are a further four at which the high level of participation also appears to be explained by the inherent nature of the parents themselves. Whatever the setting they are highly vocal, contributing freely, uninhibited by any attempts to restrain them. Another ten of the hearings characterised by high participation levels would appear to come closest to the ideal of a free and open exchange, constructive discussion developing in an atmosphere of co-operation and purpose. In attaining this model there may be a coincidence of various factors: supportive panel members, a relaxed parent, a clear goal for which to aim. Finally, at the remaining hearings which invoked high participation levels the key impulse appeared to be the presence of a specific issue-related focus, parents themselves pressing forcefully because for example they were desperate for the child to be placed away from home, they were pleading for a final chance for the child, or they were striving for explanation. In different circumstances, at a different time, these same parents, unlike those in the first subgroup, may exhibit very different levels of participation.

At the other end of the scale, sixteen of the hearings were characterised by a low level of participation from all the parents in attendance. This does not appear to be explained by the inhibition or apprehensiveness of those appearing for a first time, only six of the

hearings being in this category. Moreover only four of the families felt restricted in the extent to which they could contribute to the proceedings, though this may merely indicate their low levels of expectation. This group of hearings tended rather to present as low-key affairs, often fairly routine (five indeed classed stylistically as a formality or ritual) and progressed by the panel members with little by way of elaboration. A further four are classed as challenging and humiliating, again a likely disincentive to participation. If the parent is not motivated to intervene the definition by the panel of a routine case will predominate.

Parental initiatives

The second measure of parental participation focuses on the actual initiation of discussion by parents. If we recall the research methodology, the observation at the hearing centred on the recording of units of dialogue, each exchange between any two participants being classified according to its source and to its content. With our particular interest in parents these records can therefore be examined to ascertain the extent to which parents themselves are initiating the areas of debate rather than merely responding to subjects determined by others. A parent's decision to initiate discussion may indicate a variety of circumstances. She may have arrived at the hearing with strong feelings which she is determined to convey to the panel members and therefore takes a suitable opportunity to deliver herself of them. Alternatively a parent may become frustrated at the area of questioning which is being pursued or consider that the hearing is moving towards

unwarranted conclusions and may therefore intervene in an attempt to establish more constructive debate. Whatever her motivation, she will have to overcome a greater or lesser resistance in order to make herself heard, a resistance dependent both on her own inclination and on the receptiveness of the panel members.

Tables 7.2 and 7.6 indicate the extent to which the parents in the sample initiated items of discussion, together with their distribution amongst the different content categories. The overall level of initiation is perhaps, given the constraints discussed above, surprisingly high, 857 or 14.8% of the total items of discussion being initiated by parents, 38.3% by fathers, 61.7% by mothers. With 84 mothers and 52 fathers in attendance (61.8% and 38.2%) no difference in initiation between the sexes is revealed. It should be remembered that the use of item analysis does not necessarily provide an accurate picture of the overall level of participation, the length of any exchange going unrecorded. Nonetheless a measure is obtained of parental ability to direct the interaction. Looking more closely, at twenty two hearings one fifth or more of the items were initiated by the parents, at six of these one third or more. The highest level recorded was 43.1% of items introduced by the parent, a hearing at which the discussion in large part was directed by the mother, a seasoned presence at hearings, to whose long monologues the panel members were content to listen with an air of bemusement. At the other extreme there were five hearings at which none of the items originated with the parents and a further thirty two at which the level was under 10%.

TABLE 7.2 Parental initiation of discussion at the hearing

	Parent initiated items			Total items		Parent initiated
	M	F	%	%		as % of total
Giving information	-	2	2	0.2	393	6.7
Establishing facts	215	104	319	37.2	2364	40.9
Seeking/expressing opinion	306	218	524	61.2	2568	44.4
Stylistic observations	7	5	12	1.4	461	8.0
	<hr/>	<hr/>	<hr/>		<hr/>	<hr/>
	528	329	857		5786	14.8
	61.6%		38.4%			

As with the overall levels of participation it is interesting to look for patterns amongst these scores. Not surprisingly many of the parents exhibiting high levels of participation are also those who take the initiative in bringing up particular areas for discussion. But the correlation is by no means total. For example only three of the seven hearings at which the initiation level was over 30% had parents whose participation rate had been assessed as considerable. And at the other end of the scale, four of those with high levels of participation nonetheless initiated the discussion on under 10% of items, one not at all.

If we identify as the high initiation group the twenty two hearings at which parents led over 20% of the items it is interesting to note that despite the extent to which they took the initiative to introduce specific concerns nonetheless the parents from at least nine of the hearings felt in retrospect that they had been unable to participate to the extent they would have wished. Only seven of these twenty two

families were appearing for the first time compared with 46% for the total sample. As with the high participation group a variety of stylistic classifications were given to individual hearings in the group, including all but one of the parent-dominated category.

Given the number of different individuals who are competing to participate in the hearing, and remembering that this by no means represents the total of opinions expressed, merely those not directly solicited, these figures may well be deemed encouraging. Although, to reiterate, it is not merely the extent of participation which is important, but rather its reception by those in the position of authority. The variations in the levels of initiation between the four main observation categories are shown in Table 7.6 and as can be seen they are considerable. Not surprisingly there is minimal initiation in the style-dominated and information-giving categories, both of which represent fairly specialised activity sectors. Of items recorded as opinion seeking or expressing, the proportion broached by parents rises to over one fifth of the total which, while though by no means revealing equality suggests that there is a sizeable minority of parents who are prepared to make sure that their priorities enter the debate. In the factual category 13.5% of the items originated with the parents, confirming that overall the parental initiative tends towards opinion, 61% of the 857 total.

Participation by others

Our major concern is with the participation levels of the parents. But the essential nature of their participation is interaction with the

other participants and therefore our examination should not be divorced totally from a consideration of the role of the other parties, particularly those who like the parents occupy a less directive position. An assessment similar to that given to the parents was made of the extent to which the children who were the subjects of the hearing were active participants. Table 7.3 (excluding four referrals where the grounds were disputed) reveals that just over half of the children participated to some moderate extent. In only nine of the cases were the children judged to be active and enthusiastic participants while at forty of the hearings the contribution from the children was very small if not minimal. In the assessment of both child and parental participation anything beyond a brief routine response to questioning tended to rate as 'moderate' or more. The threshold therefore is fairly low and the extent of participation should not be overestimated. Perhaps not surprisingly the stylistic classification of those hearings with the highest levels of child participation tended to be those which were more enabling by nature, including four in the supportive/encouraging category and one an open exchange.

TABLE 7.3 Participation by children in the hearing

	No.	%
Considerable	9	8.8
Moderate	53	52.0
Little	38	37.2
Virtually none	2	2.0

It is interesting to compare these measures of child and parental participation with those recorded by Martin, Fox + Murray (1981) in their study of 301 hearings. This project attempted two types of assessment of the responses of parent and child, a summary of the level of participation in the hearing and an estimate of the overall mood during the course of the hearing. The level of participation was summarised in four categories, silent throughout, minimal participation, i.e. yes, no and don't know, answering questions more fully, and asking questions, speaking out. One per cent of children, six per cent of mothers and four per cent of fathers were silent throughout and a further 21% of children offered only minimal participation. 50% of mothers however and 61% of fathers were observed to be actively participating, asking questions and/or expressing their own ideas. In the assessment of dominant mood, not a measure which was taken in the present study, the most frequent category for all members of the family was 'attentive and serious' (40% children, 54% mothers, 62% fathers) followed by 'comfortable and at ease' (22% children, 19% mothers, 23% fathers).

The other major positions at the hearing are those occupied by the social worker and by the Reporter. Much of the power of the Reporter is of course exercised in his discretionary decision-making prior to the hearing (Martin, Fox + Murray, 1981:Chapter 5; McLean, 1983). At the majority of the hearings in the study his observed role was clearly administrative in nature, proceeding the hearing to the stage at which an acceptance or otherwise of the grounds had been obtained and then assuming a neutral, fairly silent function. This is not to minimise

the variety of styles through which the different Reporters (six were involved in the observed hearings) fulfilled this role. One in particular took pains to explain to the child the grounds on which he was being referred and the implications which attached to his acceptance of these grounds. Likewise he would explain with equal clarity the rights of appeal and the procedure for exercising them. Other Reporters were less inclined to elaborate through for example the use of simplified language or to ensure that the child or indeed his parents fully understood their position. At times Reporters appeared indecisive, almost reluctant to relinquish apparent neutrality by giving advice, even when requested by the chair. Only in a handful of cases was the Reporter considered to have assumed an active role. In one instance for example he cut short a discussion based on a school report to which the parents had not had access, in another he directed the panel members to a compromise decision (that the place of safety be the parental home) which accorded with the social worker's recommendation. In a third instance the Reporter drew the attention of the members to a previous social work report citing the bad company the child was keeping and suggested that they 'might like to emphasise this'.

The participation of social workers tended also in the majority of cases to the routine, an observation confirmed by Asquith (1983) in his comparison of hearing and juvenile court. For many the assumption appeared to be that they had presented their report and their role at the hearing itself was very much to sit on the sidelines, to respond as required to any queries. Only at approximately a quarter of the hearings did the social worker appear to visualise a somewhat different

function, adopting a much more active role which might include showing solidarity or otherwise with the child and/or parents, addressing the child directly to induce responses for the panel, pressurising the panel to adopt a particular attitude towards the child, or challenging the panel over their assumptions or conclusions to which they were working. The contrast between hearings at which the social worker remained silent and those where she made a vigorous and assertive contribution was strong. The uncertainty of the role seems to be shared not only by the social workers themselves but also by panel members and parents. Panel members often seemed wary of the social work function, seeking only routine confirmation rather than encouraging vigorous participation. Parents often wonder if the function of the social worker is advocate or spy, disappointed when the social worker fails to intervene on their behalf or refrains from explaining their understanding of the situation.

'You know the social worker, can she speak for you, is that what she's there for, to speak for you ... is she unbiased, is she for us or is she just unbiased'.

Despite therefore the several parties to the hearing there is rarely significant intervention in the main flow of interaction between the panel members and the family. Both Reporter and social worker appear in the main to adopt a secondary role, assuming that their main purpose has been served elsewhere. Interaction therefore is concentrated between the family and the panel members, just under a quarter of parents having been assessed as taking a 'considerable' part in the proceedings, able to elaborate at some length on their attitudes and responses. Moreover parents initiate a not inconsiderable 15% of

the total items discussed, with twenty-two hearings at which parents led over 20% of items. Any comparison with the juvenile court, the model to which the hearing was to be preferred, can only be tentative. The only comparative data available is that offered by Fears (1977) from her study of court transcripts. In this analysis the parents offer only 10% of all words spoken (children only 3%) and though not therefore directly comparable it is obvious that participation at the hearing is of a considerably greater order given that items not initiated by parents but by panel members will on the whole be seeking a response from themselves or from their child. Quantitatively greater participation is only however one measure and in a subsequent section the quality and ease of this participation as assessed by the parents themselves will be presented.

The content of participation

Having established the extent to which participation in the proceedings occurs, interest shifts to the actual content of these exchanges. Table 7.4 is an attempt to summarise the items discussed at the hearings under observation. The schedule under which this observation was recorded has already been discussed in Chapter Four. Suffice to repeat the warning given then as to the nature of an 'item', this being the uninterrupted utterance by one party on the subject as classified, irrespective of length or of relative strength. Granted this qualification 5786 exchanges were recorded and their distribution by content is as shown in the Table. A note of explanation is required under the 8% of items classified as 'stylistic'. Though in many ways

divisive and therefore unsatisfactory this represents instances where the mode of presentation of the item, the nature of its delivery, took precedence over the content. The category evolved in the course of the pilot and in retrospect may have been better eliminated, the items being classified more strictly according to subject. The use of the term 'stylistic' bears no relationship at all to the much broader allocation of each hearing as a whole to a particular style (Chapter Six). Nonetheless this group of items illustrates the instances in which the nature of the delivery was of such strength that it preempted alternative classification. Thus the giving of advice dominated just under 4% of the exchanges, lecturing just under 3%. At one hearing for example six items were devoted to lecturing the child on his school attendance; at a second ten items were given over to advice from the chair on how the child should pursue his ambition to be a motorcycle mechanic.

TABLE 7.4 Content of the hearings : classification of 'items'

	No. of items	%	
GIVING INFORMATION			
Report contents	130	2.2	
Legal	78	1.3	
Disposal	73	1.3	
Function	71	1.2	
Administrative	19	0.3	
Other	22	0.4	
	393		6.7
ESTABLISHING FACTS			
Offence : details	647	11.2	
reasons	98	1.7	
School : attendance	289	5.0	
other	315	5.5	
Child's interests	284	4.9	
Family background	121	2.1	
Previous/subsequent trouble	70	1.2	
Future	63	1.1	
Friends	60	1.0	
Punishment methods	48	0.8	
Glue sniffing	33	0.6	
Other	336	5.8	
	2364		40.9
SEEKING/EXPRESSING OPINION			
Disposal	697	12.1	
Offence	414	7.2	
School	330	5.7	
Child's general conduct	311	5.4	
General	147	2.5	
Environment including friends	134	2.3	
Facts of referral	121	2.1	
Parental involvement	71	1.2	
Reasons (explanation)	56	1.0	
Family situation	54	0.9	
Future	45	0.8	
Punishment	34	0.6	
Glue sniffing	31	0.5	
Other	123	2.1	
	2568		44.4
STYLISTIC OBSERVATIONS			
Advising	219	3.8	
Lecturing	164	2.8	
Threatening	56	1.0	
Giving reassurance	12	0.2	
Seeking guidance	6	0.1	
Accusing	4	0.1	
	461		8.0
TOTAL	5786		100.0

In the course of drawing up the schedule it appeared that some distinction could be discerned between statements that were primarily concerned to establish facts and others that were more directed towards the expression of opinion. The distinction may at times seem rather arbitrary but proved satisfactory as a working model, 41% of items being recorded as establishing facts, 44% as the expression of opinion.

Given the provision of reports to the panel members it is perhaps surprising that such a high proportion of the hearing should be concerned with the establishment of apparently routine facts. Does this signify their absence from the case papers supplied or does it suggest a routine of fairly straightforward questioning, an opening gambit which aims to establish rapport during the initial stages of the hearing? We can only speculate. It is obvious however that the details which preoccupy the panel are those relating to the offence, primarily its mechanics (11.2%) but also explanation (1.7%), and those regarding school (10.5%), roughly equally divided between items establishing attendance and those relating to other aspects such as subject preferences. Discussion of the child's interests provides just under 5% of total items, while the other facts which are sought range over a diversity of topics, from plans for the future to punishment methods invoked by parents.

An interesting pattern emerges however if the emphasis on offence related items is examined more closely. At twenty six of the hearings over ten items related to facts about the offence, with 43 as the maximum score, 32 as runner up. These twenty six hearings in fact accounted for 43⁴ (or 67%) of the offence related items. Moreover

fourteen of these twenty six hearings were ones to which the child had been brought with four or more grounds of referral. On the other hand there were four hearings each with over ten grounds of referral where offence based discussion was minimal. It is clear nonetheless that in general the greater the incidence of offences the higher the likelihood that the panel will spend considerable time on their discussion. A similar tendency is evident in the discussion of school related issues. There were seventeen hearings at which ten or more of the items related to school, with a maximum of 39. Of these seventeen, twelve of the children had in addition to offences been referred on grounds of truancy. There were only therefore five hearings where extensive discussion of the school was unaccompanied by the child's truanting, and alternatively only four cases of truancy which did not record as many as ten exchanges on the theme. .

Moving to the issues on which opinions were sought or expressed, just over 27% of the discussion (12% of total observed items) centred on the disposal. The proportion of any hearing devoted specifically to discussion of the appropriate disposal varied widely. At one extreme the chairman, perhaps suddenly deciding that time was up, would turn to his or her colleagues and announce that no doubt they were all in agreement that a home supervision requirement or whatever was in order. Or each panel member would move to offer his or her opinion and a consensus would emerge. If too abrupt the 'deus ex machina' approach may well bewilder parents, the hearing having switched from preliminary discussion to disposal with no apparent exposure of the reasoning behind the decision or the means by which the three panel

members had co-ordinated their preferences. As one parent, recalling the sudden emergence of a suggested disposal, observed,

'They didn't sit and discuss anything. They didn't sit and whisper, whisper'.

At the other end of the scale, a hearing stands out at which virtually the entire discussion (57 out of 77 items) in a hearing lasting over an hour was given over to debate amongst the various parties as to the most appropriate disposal. The child was at List D school and the choice polarised into a transfer to a senior school or a discharge to home. The child was asked at the outset which he would prefer.

'I'd like to come home, but I know you won't let me'. 'How do you know', replies the Chairman, 'panels do the stupidest things at times ...' And indeed after much heated debate and opposition from the school representatives a return home was, on the casting vote of the chair, the view that prevailed.

The subjects which had dominated in the factual category, the offence and the school, also proved popular issues for the expression of opinion, just over 16% and just under 13% of the total expressed. Comments on the child's general conduct provided the next sizeable category (12% of total opinion). A wide variety of other opinions were offered, observations on the facts of the referral, speculation as to the reasons for the child having committed the offence(s), hopes or fears for the future, expressions of regret at for example the closure of a community centre. We have already revealed above that one fifth of the items in this group are initiated by parents and the specific areas of their contribution will be examined in more detail in the next section.

The items grouped together under the heading of 'giving information' reflect more routine aspects of the hearing process. They tended to be peripheral in nature (forming under 7% of items) but could be revealing in their content. Indeed their very distribution is itself indicative, only 71 references to the function of the hearing, only 130 exchanges which discussed the contents of reports. It was certainly not standard practice for the chair to offer by way of preamble a summary of the hearing's intent: at only 59 of the hearings was any statement made that was indicative of the function of the hearing or the aims of the panel members. It could be argued that at second and subsequent appearances a general statement was no longer so necessary but in these instances (54% of the total) a more specific definition of their role that day could be in order.

The type of statements that were made as to the function of the hearing tended to be conciliatory in nature, stressing that the panel was there to 'help rather than to punish', was concerned with the 'best interests of the child', and, as the name implied, was there to 'hear' the view of all parties. The occasional panel member expanded on the generalities, explaining for example that they were there to discover anything on which the child needed help and that this was why, although the child had been referred because of theft, they were discussing a school report. Several stressed that the panel was not a court of law but failed to point the practicalities of the distinction. A generalised if fairly ill defined welfare provision was the pervading sentiment. One of the few departures from this general welfare nature of the remarks was a comment that 'we are not here to pat you on the head

and send you away rejoicing', suggesting a concern on the part of this particular member that the delinquent nature of the child's activities should be fully realised, the appropriate measures being of a punitive nature rather than an indeterminate liberalism.

In the mind of the parent and child the report features as a major image amongst the symbols of the hearing system. A social worker has been to the house, perhaps for the first time, in order to prepare the report in the weeks prior to the hearing. When the family arrive at the hearing the panel members have these reports in front of them, additionally also one from the school. The panel members may speak with authority on the basis of the contents of these reports, may indeed allude to knowledge which could only have been gleaned from such reports. Yet at only sixty four of the hearings was any direct reference made to the content of school, social work or other reports. And these references could rarely be considered the 'disclosure' demanded by the Rules, more often an oblique reference to some specific failing or a general comment on the overall tone of the report. It is very easy for the panel members, aware of the power inherent in undisclosed reports, to wield them as a potential threat. The whole subject of reports and of their accessibility will be explored in greater depth when the parents themselves are asked for their opinion (Chapter Nine). It is perhaps significant however that the fullest disclosure (extending to eight items) centred on a school report which was very positive in nature, the chairman reading out lengthy extracts by way of support towards the child. At the same time however the dangers of the closed report were revealed. The school felt that there

was conflict between the boy and his step-father, a statement which surprised both family and social worker and which prompted feelings of both bewilderment and annoyance to be expressed at the subsequent interview.

The data on the content of hearings which has been revealed in Table 7.4 can be rearranged to exclude the at times somewhat arbitrary division between the categories defined as 'establishing facts' and 'expressing opinion'. The subjects around which the major interaction occurs are then more clearly isolated (Table 7.5). The offence, grounds on which these particular children have been referred to a hearing, clearly dominates at 20% of all discussion, followed by school-related issues which contribute a further 16% of total items. It should be remembered from above however that the distribution is not even, a bias towards the discussion of the offence in those referrals with a high incidence, of the school where there is a history of truanting. Consideration of the appropriate disposal is the third major preoccupation, 12% of the total proceedings.

TABLE 7.5 A summary of hearing content

		No. of items	%
Fact	Offence : details	647	11.2
	reasons	98	1.7
Opinion	Offence	414	7.2
		<u>1159</u>	<u>20.1</u>
Fact	School : attendance	289	5.0
	other	315	5.5
Opinion	School	330	5.7
		<u>934</u>	<u>16.2</u>
Opinion	Disposal	<u>697</u>	<u>12.1</u>
		2790	48.4
	Other	2996	51.6
	TOTAL	<u>5786</u>	<u>100.0</u>

What should be made of this concentration on the offence and to a lesser extent on school-related matters? Care has to be exercised to avoid too rigid an interpretation of the content of the hearings, these schedules being unable to record any of the substance of the discussion, but nonetheless the preoccupation with school and with the offence has to be set against the relatively low importance accorded to items which would seem to reflect a more considered reflection of the child's general welfare. If the categories of the observation schedule are examined the majority reflect a concern with specific realities rather than a tendency to promote discussion around a more abstract concept of the child's needs. It is as if the specifics of offence and of school are pursued but that a second stage at which the implications and requirements generated by these initial factors are developed prior to a third stage, the selection of a disposal, is omitted. Specifically, only a handful of the categories - perhaps family background (3%), parental involvement (1.2%), concern for the future (1.9%) - would seem to reflect a more considered examination of the total welfare of the child, of the issues which Kilbrandon would have envisaged as the substance of the hearing. This is not to discount that such considerations may lurk behind discussion of for example the school or the offence but suggests that if so such intent is rarely clarified.

We can of course speculate on the factors which may influence the composition of the hearing debate. Motivations which may direct the parent to initiate discussion have already been cited above. The bulk of discussion however still originates from the panel member. Their individual expertise, both innate and accumulated through length of

service, will obviously influence the skill with which they can pursue with any family potentially emotive or disturbing areas of experience or can develop a debate which explores beyond mundane accumulation of the precise mechanics of any individual offence. But the very desire to pursue such leads will in turn be heavily influenced by individual panel member ideology, their personal commitment to what exactly they are trying to achieve with a child appearing before a panel. The panel member for example who declared 'what you need is punishment, and we can't do that', is revealing a fundamental dissociation from the declared objectives of the system, one that suggests that she is likely to have somewhat different priorities from some of her colleagues who endorse a more orthodox acceptance of the Kilbrandon principles. Members will also no doubt be influenced by the contents of the reports before them, selecting from the details provided to pursue the leads which to them seem important. The content of the discussion is also guided by the extent to which parents or child initiate: if a parent states and pursues her case fairly forcefully the panel members take on the role of respondent, if the family are monosyllabic the members have to provide the initiative.

Parental initiation of content

It is appropriate therefore to examine the content structure of the hearings to ascertain the areas which are favoured by parents in their desire to initiate debate. These are detailed in Table 7.6 which expands on the broad divisions of Table 7.2. One fifth of the opinions expressed are initiated by parents. In percentage terms parents initiate

almost half of the comments relating to the principles of punishment in the home (usually a declaration by the parent of their attitude) and to glue sniffing (generally a condemnation of the activity and its perceived evils). In actual numbers however these totals are small. The most significant category (Table 7.6) is probably that which refers to the child's environment and friends, well over a third of the views on this subject being asserted by parents. Very often, as will be borne out subsequently in a discussion of parental theories of delinquency (Chapter Ten), parents are expressing their belief that these are the factors which lie at the root of their child's involvement in delinquent activities. If they felt strongly on the subject a parent who had not been asked directly for the reasons to which she attributed her child's behaviour might intervene to declare her conviction that the child's problem stemmed from boredom, a lack of alternative opportunities in the surrounding environment. Parents are also particularly keen to proffer opinions on their child's general conduct (30.9%), and to speculate on explanations for their behaviour (26.8%). This may reflect a desire on the part of parents to convey to panel members the aspects of behaviour on which, from the home, they are most able to pronounce. Opinions on matters pertaining to school are also fairly vigorously pursued by parents, over a quarter of the items being at their instigation. Parents however initiate discussion of the actual disposal in relatively few cases, only 8.6%, and this certainly bears out the general impression that in the majority of cases it is during the general discussion phase of the hearing rather than at the specific decision making stage that parental participation is at its

highest. It is less usual for a parent to lead by proposing her ideas for an appropriate disposal. Indeed only at seven hearings did parents initiate more than two items relating to the disposal. And all but two of these were hearings where there was strong disagreement between panel members and parents over the disposal which was finally selected, suggesting a strong motivation on the part of these particular parents.

Parents are also more reticent or perhaps less concerned in initiating factual discussion. This is perhaps only logical, they, as the subjects of the enquiry, being the ones to be questioned. Indeed in percentage terms parents were particularly eager to outline the details of punishments which they had employed towards the child (27.1%), to expose plans for the future (19.1%) and to furnish accounts of the child's interests (18.3%). It is possible to interpret these as offers of mitigating features, pleas which parents hope may lead to moderation in disposal. Alternatively, they are again the personal details of the child, aspects with which as parents in the home they can claim a greater familiarity.

TABLE 7.6 Parental initiation of the content of hearings

	Items initiated by parents	Total items	% initiated by parents
GIVING INFORMATION			
Report contents	1	130	
Legal	1	78	
Disposal		73	
Function		71	
Administrative		19	
Other		22	
	2	393	0.2
ESTABLISHING FACTS			
Offence : details	66	647	10.2
reasons	7	98	7.1
School : attendance	42	289	14.5
other	31	315	9.8
Child's interests	52	284	13.3
Family background	18	121	14.9
Previous/subsequent trouble	10	70	14.3
Future	12	63	19.1
Friends	6	60	10.0
Punishment methods	13	48	27.1
Glue sniffing	5	33	15.2
Other	57	336	17.0
	319	2364	13.5
SEEKING/EXPRESSING OPINION			
Disposal	60	697	8.6
Offence	74	414	17.9
School	38	330	26.7
Child's general conduct	96	311	30.9
General	23	147	15.6
Environment including friends	51	134	38.1
Facts of referral	24	121	19.8
Parental involvement	13	71	18.3
Reasons (explanation)	15	56	26.8
Family situation	11	54	20.4
Future	8	45	17.8
Punishment	15	34	44.1
Glue sniffing	15	31	48.4
Other	31	123	25.2
	524	2568	20.4
STYLISTIC OBSERVATIONS			
Advising		219	
Lecturing	5	164	
Threatening	2	56	
Giving reassurance		12	
Seeking guidance	5	6	
Accusing		4	
	12	461	1.4

We have discussed at some length both the extent and the content of participation by the different parties in the hearing. These basic statistics can say little however of the quality of the participation. The extent to which it is part of an equal and considered exchange of views, the degree to which it is merely an interval filled by the parent but to the contents of which the panel members pay little heed. The level in fact at which it stands on Arnstein's ladder (1969). To an observer there was a strong impression that the panel welcomed responses to direct questioning but very often became uneasy if the parent widened the agenda by introducing new material or challenging traditional orthodoxies. Panel members were for example universally reluctant to explain why co-accused may have received different attentions (an excellent opportunity to explain panel philosophy), taking refuge in a stark 'we are here to discuss your case'. They were also notably unwilling to be drawn into debate over broader educational issues, that for example where the child plays truant there may be fault in the school as well as the child. An alternative technique was to hear the parent out but then resume the discussion as if from the point prior to her contribution. There are of course explanations which can be put forward for such strategies. Panel members may be aware of their limited influence in certain areas and may be anxious to foreclose discussion which may stray in such directions. Alternatively they may have their own formulations on what is relevant to assessing the needs of the child and may dismiss attempts at debate which they judge will not further that particular aim. But it is with the parental assessments

of these situations that we are concerned and it is to these which we will now turn.

Parental assessment of participation

Parents vary in the importance which they attach to their own verbal participation in the proceedings at the hearing and any assessment which they may make is therefore relative to their own needs. This is clearly illustrated in those parents exhibiting the highest levels of participation who nonetheless consider that they have been unsuccessful in achieving their desired level of contribution. And at the other end of the scale there are those who say very little but are notwithstanding content that they have conveyed their priorities. Satisfaction is essentially a measure of the accord attained for any one individual between expectation and **outcome**. Some will define the hearing as a forum for negotiation, anticipating an active role in decision-making, others will be content to respond to fairly routine questioning. What is important however is the extent to which parents feel that they have been able to say all that they wished, and moreover feel that they have been listened to. It may very often be the actual act of participation which induces parental satisfaction rather than any belief that they themselves have been decisive in decision-making. The absence of barriers to communication, a generally permissive atmosphere, may go far towards inducing satisfaction.

(i) Satisfaction : The response of parents on this key issue varied considerably. A substantial group of families (58) considered

themselves to be satisfied with the level of participation which they had achieved. 'I got my say too and they listened'. They spoke favourably of the encouragement extended towards them.

'Yes I did feel that ... he did make that point that anytime G and I wanted we could say something so I did feel quite at ease',

and felt able to participate without constraint to an effective end.

'Oh yes there was nothing held back. There was a problem there and the only way to get rid of it was to discuss it'.

A number of parents whilst acknowledging the receptive atmosphere of the hearing expressed also a certain ruthlessness. They would reject any attempt to restrict their participation.

'You weren't hindered from speaking your mind about anything, they even asked you if you wanted to say anything just go ahead and say it. I think everything was said at the hearing ... if I was wanting to say something I'd say it, it's as simple as that, I'm too stubborn not to say it'.

Moreover the mistake should not be made of assuming that all those who were satisfied by their access were also in accord with the sentiments being expressed, of equating satisfaction with harmony.

'I just waited and then I blew right up in the air and told her exactly what I thought of her'.

Other parents however felt more inhibited. Some were conscious of the limited time available for any one hearing and felt restricted in the extent to which they could develop their ideas or could respond at length to the questions they were asked. Others were reluctant to speak too freely in front of the child, conscious that to be too critical of the child could appear to be rejecting of him. One father spoke at length of the conflict which this created and of the strategy

which he had to adopt in order not to offend his child.

'Now that woman turned to me and said, 'And will it be alright with you Mr B if we will take him away for six weeks'. If I turned round and said, 'Yes, take him away' what is E going to think, so I was in there arguing. I already had my mind made up that it was a good thing he was getting taken away to see if it would help him but I wasn't going to say it in front of him'.

Few hearings in the study took the opportunity to talk to parent and child separately, a practice to which can be attributed both advantages and disadvantages. Both parent and child may feel less inhibited in communicating their more immediate responses; alternatively the child in particular may feel overwhelmed if intense pressure is concentrated on him. Discussion which excludes the other party may also be divisive, heightening rather than reducing the parent-child conflict. It hardly accords with the creation of a permissive atmosphere conducive to an open exchange of opinions. Nevertheless a number of parents spontaneously suggested the strategy as an aid to a more honest discussion of areas of conflict. Where the parents have separated there may be a particular argument for this practice. At one hearing, to the consternation of the social worker, a mother arrived totally unexpectedly from London; she sat in the hearing while the younger of the two children asked his father who she was, was she indeed his mother. For another mother it was the unanticipated presence of her former husband at the hearing which severely restricted her contribution to the proceedings.

'No I didn't expect him. There were things I was going to say but I just dried up... I knew what I was going to say but it just wouldn't come out. I was getting tongue-tied and I was getting embarrassed ... they could have taken us individually into the room'.

More often however parents are inhibited in their contribution simply because they lack confidence. They may plan their campaign in advance but falter when actually before the panel.

'I don't know if I've got an inferiority complex about the way I talk, but I really feel that I can't, whether it's because I know I'm at a children's panel purely because I've never had any dealings with this or a court or anything else, there's a lot of things I'd like to say, before I go, but the minute I get there I dry up'.

However informal the approach, the unfamiliarity of the situation breeds stress.

'I wasn't free at that panel, I wasn't able to express myself maybe as I should have or could have because I was still nervous ... more frightened of making a fool of myself than anything really so you're quiet'.

It is tempting to assume that as parents become increasingly familiar with the hearing situation their confidence will increase and this barrier to participation will recede. If there is any tendency of this form however it is masked by other restricting factors, there being no simple correlation between ability to participate and the number of times parents had attended a hearing.

A number of parents indeed express a reluctance to participate induced by somewhat different factors. They hang back not through lack of confidence but because they are wary of the consequences of saying too much. They may antagonise panel members, with the danger that it rebounds on the child, or their contribution may reveal too much of their own character. They are concerned therefore to manage their contribution so that it has maximum benefit.

'I felt I could say what I wanted to and yet again, you don't want to say too much, you don't want to jump on them too heavy because you get the impression it could come back on your son or daughter'.

More bluntly,

'If I'd have said the things I wanted to I'd have been put away - I'd have ended up in jail. At the start I didn't say too much but I listened and I just sat there and shook my head: those people up there have no clue whatsoever what's going on'.

One or two parents felt confused in cases where different charges on different dates were involved. It was not always clear which had been included and if they sought clarification they risked exposing the child to further penalty. Indeed a cautious approach to the entire situation may be warranted. As one parent, clearly feeling in command, declared - 'you only tell them as much as you think it's good for them to ken'. This suggests a fairly sophisticated management of the interaction, a policy revealed also by a father separated from his children.

'They extracted nothing from me actually, absolutely nothing, as I say roughly half way through I was convinced that what was going to happen was they were going to be discharged, at the very worst they were going to have to visit a social worker so I didn't say much ... it could have made it worse'.

A somewhat different edge on participation is exposed by those families who were conscious of being under scrutiny. One father explained the awareness.

'Well I actually think they are interested in what the parents say so that they can analyse the parents at the same time because they were analysing me with every word I say ... they are trying to form an opinion of the way I think and the way I look at life and the way I talk to them and they are going to see if I am in any way to blame for what any of the boys have done'.

Again, however, a logical conclusion of such scrutiny is to attempt

impression management. A number of parents spoke of their efforts on behalf of their children.

'I couldn't say what I'm saying just now because I had to say the right things to impress the panel ... I was working for him. I couldn't sit there and say I think this and that because that was my kid and I'm getting scrutinised here and I'll have to say the right things'.

Assuming that all parents act likewise this same family foresaw a dilemma: if all parents are putting on an act for the panel how is it to distinguish the caring from the careless. In their own case they felt the panel had been cynical but could see no way to overcome their suspicion.

'But what else can you do - I was watching her and she kept going ... like that as much as to say I've heard it all before, it's just typical and then she would butt in and start getting on about him again and when I said to them he's not really a bad laddie she'd do ... you could see it and I felt really low, really low about it'.

For some parents however there were no such dilemmas to manage. These were the parents from whom even limited participation was unlikely. The mother for example who declared, 'I wouldn't say anything unless they actually spoke to me' and revealed 'Well I don't know if the procedure is you speak when you're spoken to'. And another mother who would have liked to participate but explained how the social worker had told her

'You just sit there and I thought she meant I had to ... She said I'll be there and you just sit there and I thought - well I just have to sit back and not say anything at all, and two or three times I wanted to break in but I didn't just in case I was doing the wrong thing ... it wasn't until they said join in if you've anything to say ...'

Others were hesitant - 'I didn't know if it was my place to mention it to them' - while one or two parents, particularly where the child was unresponsive, were torn between a desire to intervene and a fear of being thought presumptuous.

'But I didn't want to say anything to him in case she would have said 'we're talking to him' because it's their place to talk to him. I thought to myself whether I should say to him to sit up and maybe you'll hear better and listen but I thought I had better not say anything because it's T that's here not me. I didn't know what to do I was all wasted and that's when I started into the conversation about smoking ...'

As this extract reveals the analysis of strategy and of motive which occurs may be considerable.

(ii) Dissatisfaction : A sizeable minority of parents were much more negative about the opportunities for participation in the hearing; they denied its image as a sharing of ideas and felt frustrated in their attempts to communicate. These critics expressed considerable anger at their treatment and spoke bitterly of the futility of a hearing for which the decision had already been taken or at which their opinions were impatiently dismissed. Parents felt that if they expressed their views at any length the panel ceased to listen; they were allowed to speak their mind but purely as a formality, a gesture of tokenism.

'You know they're just not believing a word you say ... You're not in there to talk, you're just in there to sit and listen to them. When you do start talking, they just switch off, they sit there and wait till you've finished then they get in'.

For some even this ritual participation was curtailed - 'each one's ready with the whip as soon as I walked in the woman called time before

we even got a chance to speak'. The sentiment is characterised by a family who tried to discuss the school report but felt it was just shrugged off, elbowed aside.

'I don't think they wanted to know. They had S there for two things, that's what it was about. I could have said more but I felt I was wasting my time as far as the panel was concerned'.

Those parents who attempted criticism of past hearings or subsequent social work intervention also felt that they were stymied - 'I think they shut me up did they not'. One mother interpreted the response she had received from the panel and concluded

'You haven't got the liberty of free speech because that one time I sort of butted in there was that tension, I felt the tension you know as though I was speaking out of turn, which is wrong, they should say well what is your views on this, they should ask you, get you involved, it's a matter of involvement'.

Amongst these parents who felt the restrictions and inhibitions on their participation there was often an articulation of the power differential inherent in the hearing situation. They felt overwhelmed by the hopelessness of their situation, pawns in a process where those in authority were absolute. An embittered mother concluded

'They win all the time, it's like every other thing you are the loser, so I'm not bothering any more ... They wouldn't have cared if I had stood on the top of that table last week, you've no chance. You are condemned straight away with them'.

She also explained to me at interview the motivation of her outburst at the hearing - 'I knew all this you see, it was just that I wanted them to know that I knew I wasn't winning'. If nothing else she could at least grasp the opportunity to ventilate her feelings.

The resistance to the pervading inequality of the encounter can be specified into a fear of the power panel members hold through the disposals available to them. For example one mother felt that in attempting to explain her views on education she merely aroused the panel members' hostility, laying herself open to charges of inadequacy or of irresponsibility - 'I feel as though they are just ready to pounce on me'. The differential applies also of course to the control of the hearing itself. Unless the parent can sustain a prolonged intervention she may be condemned to silence, the panel enforcing their ability to control the flow of communication.

'It seems to be alright for the likes of social worker and panel to, they have their say but parents have no say at all'.

Parents also suggested that the panel was selective in its attention - 'I don't think they really bother unless it's something they want to hear', or more critically that the panel at times attempted to manipulate, leading to the frustration voiced by one mother,

'They agree with you at the time, and then they go on to a different subject, and then they come back to it, and they make you feel as if you have opened your mouth and you are wrong, and I mean folk like myself going up to the panel shouldn't feel like that, they shouldn't because after all it's your laddie or your lassie that they are dealing with, so why can't you not just voice your opinion, and to hell with what they think'.

It is interesting at this point to consider whether there are any links between the different styles in which hearings are conducted (Chapter Six) and the extent of parental satisfaction with the opportunities for participation. It would not be unreasonable to suppose that at the more open and supportive hearings the parent should feel more able or inclined to participation. The evidence from

comparing the stylistic categories with the parental ability to participate is somewhat inconclusive. Certainly among the hearings assigned to the largest stylistic classification, supportive and encouraging, the relationship is as would be expected with almost 70% of the parents feeling able to contribute to the hearing and to take part as they wished. But the percentage of parents expressing satisfaction with their own participation was equally high in the hearings classified as a formality or ritual and even amongst those hearings labelled as challenging and humiliating over half of parents remained satisfied. Surprisingly, on the other hand, as already noted only two of the six hearings classified as parent-dominated had parents who were satisfied with the opportunities for participation, and only half of those which were given the title of 'open exchange'. Although therefore it would appear possible to point to features from for example the supportive style which are more likely to enable participation, the relationship is by no means straightforward, reflecting no doubt the differential perceptions which parents hold of a satisfactory level of participation when they make their assessments of their own opportunities to contribute.

(iii) Parental sense of involvement : We have looked in some detail at the reactions of parents to the concept of their participation in the hearings, and have attempted to convey some impression of the differing levels of satisfaction. In addition to these general reactions however parents also speak more specifically of particular factors which may deter them from playing an active role. Consciously or unconsciously

panel members may mystify aspects of the procedure or content of the hearings, tending thereby to exclude parents from the proceedings. Basic to all interaction is language but this is also therefore a means of discrimination. Several parents detailed the restrictions which were imposed not only on their child but on themselves because of the language which the panel chose to employ.

'There's a lot of words that they use up there that we never use normally, they're rhyming them off there, I haven't a clue what they're saying'.

'The way they phrased their questions is they use too big words for W, he's not a backward boy but he's not a bright boy either and he didn't understand half of the things they said to him, whereas if they would make it, they must remember that they are from a different social life than what we are from and if they would phrase it in a way that children from this sort of life would understand, they would get on better I think and there would be more understanding between the panel and the person involved'.

Whenever panel members glibly use terms such as supervision or psychologist or assessment they are likely to confuse or to silence parents who are unfamiliar with their meaning. The use of what appears to the parent as jargon mystifies and excludes. Or it may be not so much the words that are employed but the complex form in which they are put. Rather than a straightforward question or statement the panel member indulges in a stream of comment, simultaneously part interrogation, part reflection, part speculation.

'I knew what they were talking about most of the time, it was the way they were saying it, because they couldn't just come out with it the right way - ken, straightforward ... you're ignorant and they're not'.

Parents may also be ignorant however because they are excluded from the major content of the discussion. The Kafkaesque situation which this

creates has already been alluded to. It arises primarily from the non-disclosure of reports and will therefore be discussed at length in the section devoted to the preference of parents that the contents of reports should be fully available to them. It is appropriate within this chapter however to consider the more general response of parents to the content of the hearings, their assessment of the agenda.

The hearing agenda

The relative strengths of panel members, parents and others in initiating contributions to the agenda of the hearing have been explored in an earlier section of this chapter. Our interest at this point is in the commentary of parents on what does get discussed. In trying to make sense of what has been discussed at their hearing parents attribute meaning and intent to what is said by the panel members. In recalling the proceedings therefore parents often build up explanatory accounts. One couple for example recalled the panel as an attempt to get their children to lay blame on their cousins.

'I thought that they were trying at the very beginning I thought they were trying to get B to say he was led on, that was the impression I got straightaway. They did seem to be talking to him more and the man especially he asked him more than once, 'and nobody asked you, nobody told you to do it B and nobody asked you to do it B'. He was actually sort of trying to put words into his mouth I thought, trying to get him to say yes they were doing it so I done it'.

The extent to which the parent endorses the questioning of the panel member depends of course upon her perception of the function of the hearing, her endorsement of an underlying philosophy. Several parents felt that the important things were discussed by the panel, 'he took the

words right out of my mouth', and that they succeeded in locating the problem. A considerable number however were critical of what had been discussed, the most common complaint that the hearing did not probe sufficiently, was 'slack in discussion', 'a light discussion like I'm having with you now' (sic).

'Everything is just on a level basis, they don't go underneath to find out anything. I mean they are just skiffing the surface. To me they just couldn't care less, they are just wanting him in and out as soon as they can'.

For example one father was surprised that there was no mention of the effect separation from his mother might have had on the child.

'To me his background, they never brought out anything about his background. They never asked me and I butted in once or twice. They never asked him about his home life or his mother or if he was happy without his mother. To me this is bound to be an obstacle'.

Other parents generalised the same complaint.

'I think myself the panel's not going into the background enough, the family, I mean they're there to help a child that gets into trouble but at the same time they never discuss about if the man's working or if there's any animosity in the home that's this could be partly to blame for a child getting into trouble'.

'I think they should ask the parents more. What like their marriage is, if it is going to be OK, if it is going to break down. What like the kids are going to feel like. I mean they should really ask the parents more than what they really do'.

These comments have considerable significance given the exposure by Martin + Murray (1981) of the reluctance of panel members to operationalise their own beliefs on the importance of parental responsibilities and family pathology and to discuss with parents specific issues of family relationships. The preference is for the 'safe' topics of school or leisure activities rather than the potentially

more emotive exploration of for example marital difficulty or violent behaviour. From the comments made above it appears that it may be the panel member rather than the parent who shirks the responsibility.

'I was separated this time, I wasn't separated the last time, this happened in between times and I'm surprised they never brought this up. I suppose by the way they read it it was down on paper but they never related it to me, what I felt about it and how M felt about us being divorced'.

Parents themselves suggested that the panel members might prefer to talk to the child alone, a practice only very rarely adopted in the study area - 'I think sometimes they could ask the boy a bit more, maybe in private, ... ask if there's anything bothering him about his family life or if he's got any grudges ...'

In contrast to quite widespread bewilderment at the seeming lack of panel interest in such areas there were only a few complaints that panel members overstepped their remit. One father for example resented the children being questioned about their parents' separation, particularly as he could see no correlation between the events of the marriage and the pattern of offending.

'What I didn't like discussed at most of the panels was the fact my wife and I are separated. They keep asking C and they keep asking J every time they go to the panel, are you missing your mother... I think it's wrong to ask a child that in front of their father'.

And another observed the panel member's tactic in broaching a sensitive issue.

'They brought up about drinking, they'd no right bringing that up in front of everybody about me ... aye he'd no right discussing that, then when he saw I was getting ratty, oh I'm enquiring he says, that was none of his business'.

The lack of a shared perspective may invoke both bewilderment and resentment at the direction that questioning takes. One parent for example was taken aback to be asked questions about her own mother. Another spoke with bemused exasperation of the behaviour of a social worker preparing the social enquiry report.

'Do you know when I first had that woman do you know they went as far as asking the questions on what kind of birth I had when I had S. That's the questions they asked. Was she a normal birth, was she, had you any trouble, how long were you in labour, that's true. I looked at her and I said what do you need to know that for and she said that was what she had to ask. I asked what relevance it had on S's case just now. She said she'd got to ask them. To me that's a lot of rubbish, and I wasn't prepared to answer any of that to her'.

There were a number of parents who felt that the emphasis of the panel had been wrong. Again a difference in underlying philosophy may be latent. For some there was undue attention directed to the offence itself rather than to wider implications; for others the converse was true. One parent complained bitterly that the panel appeared merely to process the child, little interested in underlying cause.

'They were only interested in what he's done, they're not interested in what brought it on ... what could be done to avoid it ... this is all discarded and they're only interested in the crime as though he's not a person, he's just an object that has committed an offence ...'

Several times conflict emerged between the relative importance of school and offence, resentment surfacing if the panel appeared to ignore the parental fears.

'Well the school is important but I thought they would have concentrated more on the stealing. To me a young boy spoken to about school it must have been about two hours and not the stealing part. It was as though they weren't bothered about the stealing part it's just the school. If I go to school I can steal again'.

'There's my C got a problem, he'll not go to school and to me they brushed that aside... To me they weren't really interested in that, you were there and I tried to push it two or three times. Even the wife said we're not really interested about his school'.

Perhaps most limiting to constructive participation, a number of these parents had felt blocked if they attempted to explore possible inadequacies in the school itself: panel members refused to consider alternatives to individualisation of the problem.

'Can they not get it into their head there must be something wrong there, but no they're not interested in that ... why are they not going to school. There must be some reason because they all can't be not interested in school ... there's hundreds of them not going to school'.

In similar vein a mother despaired of her complaints of a residential school being heeded.

'See when they're running away from a place all the time and everything, why does somebody not go to find out why, what's making them do it ...'

There were a couple of complaints that the hearing agenda was inadequate from a somewhat different perspective. One mother regretted that the panel members discussed only all the bad points of her son while his achievements at assessment centre were ignored. Similarly there was regret that panels do not acknowledge more positive aspects of the background -

'Very few of them would say oh well a difficult job you've had to bring up five children, I mean nobody allows you that, that I brought them up all those years without them getting into trouble'.

Certainly for the majority of parents the major content of the agenda is determined by panel members, a content which for one reason or another not inconsiderable numbers of parents find inadequate.

Summary

It remains to this chapter to attempt some assessment of the type (or level) of participation which is being attained at hearings. Obviously this varies considerably between different hearings but it appears unlikely that anything that was observed or that parents assessed merited a rating beyond that of Arnstein's level 5 (placation). Certainly it would be difficult to recall any exchanges which resembled negotiation or bargaining (level 6). In her terms therefore the interaction remains at the level of tokenism, the panel wary of the implications of transforming the hearing into a genuine partnership with parents. Arnstein's classification is however merely one alternative and is based primarily upon the locus of decision-making. An alternative interpretation of the benefits to be gained from participation focuses on the actual process of participation itself. It suggests that personal fulfilment may be attained not necessarily from being engaged in actual decision-making but from the more restricted activity of interaction in the process itself. The very act of communication with other participants induces a sense of well-being and promotes satisfaction in the individual that she is not merely a passive observer. It would appear that where satisfaction is expressed by parents it tends to this type: their expectations are not of decision-taking itself but of being allowed a contributory voice in the general debate. It is a procedural device rather than one which in any way threatens the traditional distribution of power. It signifies the limited range to which the majority of parents feel able to aspire.

CHAPTER EIGHT : Decision-Making and Disposal

'The panel is just sort of putting a face on it ...'

We have examined in some detail various aspects relating to the way in which parents experience the hearings, including the differing styles in which the hearings are conducted and the extent to which different parties contribute to the agenda of the discussion. It cannot be denied however that despite the importance of these procedural elements it is towards the decision-taking itself that the majority of parents focus their attention. The disposal selected by the hearing is the legacy that will remain with them whatever the nature of the proceedings.

It is interesting therefore to discover that whatever the criticisms that parents direct towards the conduct of hearings, and our general thesis has been that they are not inconsiderable, nonetheless the large majority of parents (75%) express themselves as in agreement with the decision taken by the hearing. In only twenty families was there opposition to the disposal from at least one party and in five cases a final decision could not be assessed, either because denial had led to referral to the Sheriff or with a remit from the Sheriff for advice the panel had not revealed to the family what it intended to recommend. Accusations of excessive leniency and of a pervading 'softness' are therefore set aside by many parents at the stage of disposal. It is greater threat and intimidation that such parents require rather than an increase in sanction. An undercurrent persists however suggesting that while parents were content for the present, or satisfied for their individual child, they would invoke stronger measures if there were to be

any recurrence. One mother for example who records as satisfied because of the immediate decision nevertheless recalls her frustration in the past.

'He was going up in front of panels and they would say, we'll give you another chance G, we'll give you another chance and I felt we weren't getting anywhere ... It was just supervision, supervision, and he was still getting into trouble and I just felt, what's the point, they're not getting anywhere with G'.

And others speculated on the possibility that earlier action might have precluded further offending.

'I think if something had been done the first time instead of waiting till it went this far I feel it might not have come to this if something had been done the first time'.

'I would say most of the times I've agreed with them but what I don't agree with is just putting them on supervision ... once or twice in front of a panel for the same sort of offence they surely must come to the opinion that they are not doing much good for them it's going to take more than a panel and a home order supervision and all this carry on to straighten them out, they persist too long with this. That's what I reckon was wrong with my boys, if they had got punished maybe the second or third time it might have nipped it in the bud then but they knew before they even went out to do anything, I can imagine them saying to themselves, 'it's OK we'll just go in front of a panel and get supervision again, and quite truthfully, I think that was their attitude, they knew that was the worst they could get'.

Alternatively parents though welcoming the decision may recognise that emotion is not necessarily wisdom - 'I don't really think he should have got off but I'm quite pleased he did'.

Agreement

In expressing their attitudes towards the disposal which was selected for their case parents reveal in some detail their reliance on various

of the ideological elements. Those who were in agreement with the decision offered a wide range of explanations for their acquiescence; these explanations need not of course (as Martin, Fox + Murray (1981:226) demonstrate) accord with the reasoning exercised by panel members. Apparent conformity may mask diversity of intent. For some parents there was no hesitation in endorsing the choice; they interpreted the outcome as retributive action and considered this to be the appropriate strategy.

'Oh yes I have always agreed because I mean if they have done wrong and they want to punish them, well they are quite entitled to do that and I have always agreed ...'

'If he's done something wrong he has to be punished in some way'.

For others some measure had to be imposed which would prove effective as a deterrent. Again this may not have been the motivation of the panel but the outcome was compatible with the parental assessment.

'When they sent them away they needed put away. Well I didn't want them put away but they had to. Well it was the only way it was going to stop it, especially him'.

'I was upset but I thought it might teach him a lesson going away for three weeks it might give him a bit of a fright so I'm keeping my fingers crossed'.

The priority for other parents however was that the child should receive the help of which he was in need - 'I'm not exactly happy about it but if I feel it's going to help him...', 'I know it's so desperate that he needs help, I've had it a year and I just couldn't go on any longer with it'. Whatever the costs to themselves it was the child's needs which should determine the appropriate action.

'Any decisions they've made I've agreed with because I've thought it was for the best. G is the only son who has ever been sent away from home but things were just getting too bad for him to be kept at home any longer ... It's maybe an awful thing to say, but I had to see something done with G, I couldn't watch it going on any longer because I knew if something wasn't done I wouldn't have had a laddie. He would just have become a common criminal because he was getting away with it and getting away with it. It is maybe not a nice thing to say but I was glad to see him getting some help, I really was'.

A similar sentiment was expressed by a mother whose child had been deemed beyond parental control.

'Within myself I was really happy ... He's out of control so they wouldn't let him home so I'm quite happy ... Well if I think it is going to help him just staying in there I would leave it at that if he's going to be happy ...'

As these examples illustrate the satisfied extend across the entire range of disposals and include those subscribing to a variety of the individual ideological elements.

Further indication of the reasoning of a number of parents was revealed by their admittance that they had been considerably taken aback by the final outcome of the hearing.

'I was quite pleased, in fact I was shocked with the decision this time because I thought, oh well, you've been here before so there's bound to be something will happen to you, that I was quite surprised and I was relieved too'.

Their expectations had been moulded by anticipation that tariff based judgements would be employed and they were therefore surprised if for example a child was discharged for a second time or if a progression to a residential placement was not followed. The influence of expectations and of the strategy with which parents approach the hearing is again revealed, one parent for example already determined that if the

child had been put away she would have appealed. In contrast to this reaction however must be placed the response of those parents quoted above, suspicious that earlier intervention, conformation to a tariff progression, would have been of more effect.

Disagreement

Amongst those who did not endorse the outcome determined for their case, one fifth of all families, the majority (13) expressed dissatisfaction that there had been insufficient intervention, that the disposal selected was not an appropriate response to the offence that had been committed or to the needs of the child under review. Again the different ideological elements surface, revealing the logic from which parents take judgement on the decision-making process. There is the occasional retributive focus

'I think they should have been really severely punished what they had done instead of just this home supervision. I don't like to see them going away from home or anything like that but just for what they have done, I feel they should have been put away ... put some place where they could really get it drummed into them that it was wrong what they'd done'

but for the majority of parents it is a matter of deterrence. The disposals imposed are not considered to have sufficient deterrent value and the child will feel little dissuasion from further offending - 'you're frightened that they think that if they got off with it they can get away with it another time'. Their impact on the child has been minimal.

'Definitely far too soft because I think that some of the boys that go up and they just get a home supervision, they just come out and turn round and laugh - oh I'm not getting nothing done to me I'll just,

and you find that's what happens, they just go away and find something else to do, they just get into more trouble'.

'I think they let them off too easy, they are not really frightening them or giving them punishment. They got a talking to and got off with it, till the next time. I think they should really give them, not a severe punishment, but something that will make them not do it again'.

Although all these instances specifically refer to a disposal, deterrent principles can of course, as outlined in Chapter Four, also be sought in the conduct of the hearing itself.

Parents discussed in more detail how a greater impact could be made on the child, that, for example, if their child had been placed on supervision

'it would have made him realise he couldn't just go away out, he would have to report to the social worker, it would have been more of a punishment if it had been his night for a football match or that, oh I'll need to go and see this social worker, it would make him realise';

if brothers had been placed in a residential establishment over the summer 'it would maybe have brung them to their senses'. Again there was the emphasis that early intervention could forestall a progression towards more persistent referral - 'it stops it, it nips it in the bud'. And again parents revealed that behind their desire for deterrence was a concern for the ultimate well-being of the child - 'I think if he had been more sternly dealt with it would have helped him more'.

Despite any popular mythology that parents are concerned only to 'get their children off' there were only a couple of parents who would have perhaps welcomed a lesser intervention by way of disposal. The concern of one mother appeared to be more a reaction against the

intrusion of a social worker into the household rather than any more direct concern that the child had been misjudged although she did add, relying on personal anecdote, that she feared that supervision could be counter productive.

'I didn't really want anybody to come to the house ... sometimes it can make them worse too because I know a wee boy who was on probation and it actually made him worse'.

The other mother in this category resented what she interpreted to be discrimination against her position as a single parent family.

'The boy in the similar position, the boy staying next door, he got let off, but the feeling it gives me is that I need the help just being a one parent family - I don't need any help to bring up M at all ... it's like putting me on supervision not M and I feel had it been serious crimes, a lot of crimes then I would have said I need help, I can't cope with him, well I'm sensible enough to go and get somebody'.

The other parents who expressed reservations about their disposals were concerned more with the nature of intervention rather than its degree. Thus one mother for example would have preferred her glue sniffing child to receive medical attention and be dried out rather than locked up, another felt that to place co-accused together at an assessment centre was only to invite trouble. For a father whose son seemed unable to attend school none of the available alternatives appeared to be appropriate. He had been sent for six weeks assessment but the problem was one of education - 'they'll not look into if there is anything wrong with the school'. Interestingly the stylistic characteristics of these hearings tended on the whole to be the more negative, five categorised as indecisive and amateur, three as challenging and humiliating and three as ritual. Only two were deemed supportive and encouraging, suggesting

that the dissent is found in hearings which are less assured in manner. Whether this in turn implies that parents where the tone is more positive have been persuaded into agreement with the disposal can only be speculation.

Accounting for the decision

One area which preoccupies parents is attempting an explanation of how the panel members reach their decision, both the mechanics of the process and the reasons which lie behind it. And in questioning parents about decision-making one is very often asking them to account for the procedures which they have experienced. The area can be broken down into three components, when, by whom and why and these will be examined in turn.

- when

Parents were often bewildered by the lack of explicit discussion amongst the panel members as they moved towards their decision; at many hearings there appeared to be no stage at which the discussion moved to a specific consideration of the disposal itself. Parents looked for an explanation of the alternatives and of the factors that were influencing the panel in their choice but apart from a few hearings specifically devoted to this end, found very little by way of evidence.

'It doesn't really get discussed much between them there and then. I feel as if the chairwoman has a final say, it's up to her to say what she feels and the other two have just to agree with her. If they disagreed I don't know what would happen'.

'Well why did they not talk among themselves.
He already said to that woman you'd better tell
them what we think, so to me they've already made
their decision'.

Several parents, presented by this anomaly, concluded like this
respondent that the hearing was predetermined, that a disposal had
been selected, perhaps at a pre-meeting, prior to the family entering
the room.

'I think it is all cut and dried before you walk in.
They've made the decision and are just going a
roundabout way and drawing things out then they tell
you what it is. I think so, it's all cut and dried.
They didn't sit and whisper, whisper'.

Their conviction established, such parents parodied what they saw as
attempts to make the decision appear spontaneous.

'They come this at the end of the hearing, well I
think so, do you agree Mr So and So, do you agree
Mr So and So, the decision is made long before it ...'

'You see they think they're pulling the wool over your
eyes but they're not. Because that woman, you heard
her as well as me, let known if the rest hadn't started
she would have let R away but that wasn't true because
there were letters sent ... it was all arranged before
I went into the room, everything was decided'.

Amongst the cases examined eighteen families asserted, unprompted,
that the decision had already been taken. Obviously for some families
it was a reality: a List D place had been reserved or a transfer had
been requested and the hearing not surprisingly appeared a formality -
'it's not prejudged but bring your case'.

'It made me feel as though the panel didn't really have
much say in what was happening because I knew two or
three days beforehand what was happening, that she was
going to D...'

For many others however the suspicion was less firmly based, a conclusion prompted by a variety of circumstantial evidence. To some parents discussion prior to the hearing appeared the only feasible strategy, the hearing itself being too short and too inconsequential to provide the sole basis for a decision.

'It would have to be. There would be no way I could sit and interview a lad and his parents for half an hour then decide to put him away in a List D school, supervision or let him off. There's no way. I would have to think about it, go into the pros and cons of everything'.

Reference to a disposal during the first minutes of a hearing may also convince parents that the decision has already been taken,

'Well I can't see how else they could do it because you go in and you're only in five minutes and they've obviously had the facts in front of them and talked about it beforehand and talked to the social worker',

in some instances reflecting a parent's endorsement of a tariff base, with only limited room for manoeuvre.

'It's immaterial what you say to them the fact is that whoever is there to answer the charge or whatever, theft or whatever, and you can hardly change that with talking'.

Other parents may have read some sort of certainty into the recommendations discussed by social workers (Chapter Five) or may have assumed that the child would inevitably receive a similar disposal to that already given to a co-accused. One father presented an interesting argument in his attempt to interpret his own case. A prior decision was suggested by the lack of accord between the arguments presented at the hearing and the disposal finally given. Logic would have reached a different conclusion.

'They kept harping on about him not knowing what he was doing but going by what they were given by W he should have been put on supervision because they were making out he was insecure, he couldn't make decisions, so therefore he should have been put on supervision so they must have made up their minds before that'.

Whatever their explanation for a predetermined decision there was evidence that it coloured in several ways the attitudes parents held towards the hearing. Not least there may be considerable resentment towards a ritual appearance on the grounds of cost, particularly if it is to be repeated as for assessment.

'They've decided on six weeks for E, now this was decided six weeks before he ever went into the panel on Tuesday. It cost us £30 in wages on Tuesday and they're automatically going to extend it for another three weeks and that's another £30. For these offences it costs us well over £100 for nothing'.

Effective participation is also inhibited, as illustrated earlier, if parents believe it to be fruitless. It is their perception rather than any differing reality which affects their performance.

'Some of them to my mind before you go into them is a foregone conclusion, they're taking you in there and they're sitting yapping away for about an hour and all the time they know what their decision is. I mean what's the purpose of, they're getting you in there for nothing, I mean I may say in it or, nothing you says going to change it because they've got their minds made up before you go in there'.

'We were naturally put off in the sense that we thought they'd reached the decision before we went in so therefore as regards to us pleading, doing our Perry Mason as it were well there was no sense to it'.

It might be thought that undue emphasis is being placed on this issue of predetermination. It was evident however that to the parents involved, almost a fifth, it very often became the major dimension of the hearing, a backcloth against which all other responses had to be constrained.

'But then again you've got to go away back to the original thing is that the decision was made before even we went in which destroys everything you says as regards what impressions you get ...'

It is an interpretation which sits uneasily beside the official discourse on the hearing objectives.

- by whom

Whatever the timing of the decision, there is the equally important question of who is party to it. The feeling of prejudgement is paralleled by a strong identification of the social worker as the major agent of decision-making, usually through the report that she presents to the panel.

'The panel is just a formality. The panel is just sort of putting a face on it. I think the social worker could actually do what the panel does ... because I think myself the social worker's report is the final thing, that's the one that does it, I don't think it's the panel's decision it's the social worker's report that either puts the nail in your coffin or keeps you going'.

Whereas the panel members can only meet the family for a limited time under somewhat artificial and often stressful constraints the social worker has had the opportunity for more detailed assessment. As one mother put it neatly: 'I don't think they put the bairns away for what they've done it's the background reports that gets them put away'.

The social worker and the report appear to take on an almost fused identity, an element crucial to the decision-making process even if the precise details of operation remain hazy. Compared to the realities of the major studies of sentencing practice (classic of course being Hogarth (1971)), the complexity of influences and of practices, the

analysis of parents is delightfully simple. It may suggest just how much of the decision-making process remains hidden to parental scrutiny, an implicit rather than explicit procedure and therefore one about which parents are free to make fairly generalised speculations. Panel members are rarely seen to discuss at any great length the specifics of decision-taking: it is therefore assumed that the decision lies elsewhere. The most attractive alternative is the social worker; it is she after all who has been to the house and met the family, who may have discussed a specific recommendation (Chapter Four) and who is to be the agent for any further action. There is a certain authority that demands that, despite her very low level of participation during the actual hearing itself, her wisdom be heeded.

'I think if the social worker recommends a certain course of action at that panel they are nearly bound to follow it. The social worker has probably got more qualifications than all of them put together so they have to listen to him/her'.

There has of course been considerable discussion on the influence which the social work report has on sentencing both in the juvenile and the criminal court. Mott (1977) for example found that in a juvenile court the Bench rejected the advice of the probation officer in under 10% of cases, and deferred to their recommendation in 23% of cases. For 61% of cases the disposals awarded were deemed to be 'obvious' and therefore both Bench and probation officer were in agreement. In a study of 120 social enquiry reports prepared for fifty juvenile court offenders Reynolds (1982) found that 75% of recommendations were accepted by magistrates, this total rising to 95% in respect of so-called welfare recommendations, those for supervision or care orders. Martin, Fox +

Murray (1981) found in their study of hearings that where a disposal was recommended in the report it was adopted (though again not necessarily for the same reasons) in 81% of cases; the earlier study of Morris + McIsaac (1978) had revealed an adherence to recommendations in 88% of all cases. More recently Ball (1981; 1983) has revealed that a more important influence in the decision-making process may be the school report, it emerging fortuitously during the course of a different investigation that in the imposition of care orders juvenile courts were placing more reliance on the content of school reports rather than social enquiry reports. One justification was that the school was in constant contact with the child whereas the social worker may have visited only once or twice.

Those who do not propose the social worker for the key role in decision-making are much less definitive in their judgements. They tended to single out one of the panel and suggest that the initiative had been theirs, the others merely confirming the initial suggestion. (It was observed that a majority rather than unanimous decision was attained on only a handful of occasions.)

'The chairwoman maybe had a wee bit say but the other woman just agreed with what was going on - certainly I felt it was him who decided what was happening'.

Compared to the when and the why the actual source of the decision appeared to arouse less interest: it was the disposal which operated whoever be its instigator.

- why

Beyond the timing and the source of the decision, parents speculate also

on the reasons which lie behind the choice of the specific disposal, why in fact the panel made their choice. In doing so they may often provide clues indicating why they believe children get into trouble or how an appropriate resolution should be managed. Primarily of course parents are manufacturing accounts which seem to satisfy the behaviour which they have observed. At times they are obviously misplaced. One mother for example, entering the hearing and seeing an additional person (the CPAC observer) immediately concluded that her child was to be sent away - 'I knew the minute I walked in the door and seen that other boy sitting, I knew he was away'. But other accounts are more plausible, a composite of relevant factors.

'What I would think it would be the reports that they've got and then once they see you they'll actually make up their mind right, maybe they'll read the reports and say we'll let them off this time and then maybe if we went in and they thought we weren't suitable parents they'd be saying oh no they'd better be in care'.

Reference to the reports however is only a part of the explanation: it is in the specific details of the reports, those on which panel members appear to have premised their decision, that our interest lies.

Parents professed explanations for the decision which were both offence based and home based. Those motivated by considerations of tariff reported that it was 'only a first offence', 'not really a serious crime'; conversely 'they'd went as far as they could go', they had 'too much charges',

'when they got in as much trouble as they did the only thing they could do was put them away'.

Alternatively there were factors of the home, the details that parents had to assume were revealed by the relevant reports.

'We're not drinking and leaving them night and day to fend for themselves. They're getting fed and clothed and I think that helped his case as well'.

Such factors allow for individualisation, 'deal with it differently, different ways what they thought fit'. Many parents indeed invoke a combination of offence and home, assessment of the two pointing the way to the appropriate disposal.

'The likes of B and that he's not neglected in any way as I say it was just one of these things that happened, some cases they're maybe never out of trouble, some of them couldn't care less what their children are up to'.

'I suppose they take the parents into consideration, the size of the family, the means of the family, the type of conditions they're living in and the attitudes of the people concerned. And the record, I suppose too'.

Other parents however place more weight on the actual hearing itself. They cite the more immediate impressions created at the hearing and assess that they themselves are under scrutiny: 'it was us, it really all hinged on us', 'what influenced them was myself and her talking and being so honest'. The child's performance at the hearing may also affect the outcome, particularly parents felt in a couple of cases where the child had appeared exceptionally unco-operative.

'They obviously reached their decision because T just wouldn't talk. He just said he wasn't there and that's the end of it'.

'D didn't help himself at all at that hearing there because he never, you noticed yourself, he never even answered'.

Another family interpreted their own influence at the hearing from a somewhat different perspective, suggesting that only the intervention of the father had averted a decision to remove the child to a List D school.

'If we had just sat back and said yes, you're quite right, they would just have said well I think he should be put in a List D school. I felt if we were maybe, if even I was just going I'm not a very good talker whereas he was able to speak up and he could be quite firm about it. If I had just went up myself, I think he more or less saved the day'.

These observations may well reflect shrewd judgement given the finding of the Children's Hearings Project (Martin + Murray, 1981) that there was a clear (and unexpected) relationship between levels of family participation in the hearing and the subsequent decision. Minimal participation by the child at an initial hearing was likely to induce a supervision requirement rather than a discharge. Similarly at subsequent hearings active involvement of the mother and child (though not the father) was significantly related to the decision to discharge rather than place on home supervision, to place on home rather than residential supervision. Martin + Murray suggest that there may well be a cumulative effect: if an unfavourable outcome is suspected the family will withdraw into silence, increasing thereby the likelihood of such an outcome. An equally valid hypothesis however could be that if parents suspect an unwelcome disposal they may be more inclined to voice their objections, a struggle perhaps ensuing between an urge to defend the child and inhibitions imposed by the setting. Note from above however that very few parents complained of excessive intervention.

A fairly small but distinct group specifically focused on the needs of the child as the key influence in decision-making. This is a more specific citation than the wider assumption that a child's needs are revealed in examination of his background. Indeed it is a translation by the parent of the panel's assessment of the circumstances. Thus in

a number of instances the needs of the children were perceived as being for someone to whom they could talk, a substitute perhaps for a figure missing from his own life.

'I think they think he's needing somebody to talk to, maybe somebody talking to him and that would maybe make him feel better ... I think this is the root of his trouble because he's nobody to talk to'.

In some cases, as this immediate quotation, parents obviously endorse the panel's reasoning and express agreement with its practical outcome; at other times parents may query the fundamental assumptions from which the panel members are working, may challenge indeed their ideological base. Parents' attempts to interpret the why of their decisions is bound up of course with their own attempts at a causal explanation for juvenile delinquency itself. They seek at least an implicit connection between their reasoning as to why the incident occurred and the measures which are taken to counteract it. These explanations will be pursued at greater length in Chapter Ten.

Disposals

In their discussion of the decision-making process different parents operate from very different bases of knowledge. Some will have already experienced the various alternatives available to the panel, either with the child currently under discussion or with other members of the family. Others will have only the haziest of impressions, if any, of what is involved in home supervision or what happens at an assessment centre. In evaluating the different measures parents will again bring to the debate their commitment to various ideological elements and will attempt to make sense of the proposed alternatives in relation to these elements.

In the discussion that follows we shall look at parents' differing expectations of supervision and the reality then experienced, their experience of assessment and their attitudes towards and the realities of List D placements. This will be followed by an exploration of alternative disposals that could be made available to panel members. The importance of this section should not be underestimated: indeed the follow on after the hearing is in many ways of greater significance than the hearing itself. The fulfilment of the system as a source of guidance depends on an adequate translation from the conduct and expectations of the hearing to the actual disposals in action.

Supervision : expectations

At the hearings under discussion the decision in thirty-one cases was to impose a new order for the child to be supervised at home. Additionally home supervision was continued in a further seven cases. Parents were constrained in the extent to which they could discuss their expectations of the impending supervision by their level of awareness of just what the supervision order entailed. A number could only express their hope that the measure would be of value.

'I don't know how this is going to work if it is going to do any good or not. Maybe it would be better to talk to me about it in two or three months time when I see what sort of effect it's going to have'.

Others referred specifically to their child's individual needs and felt that if these could be met then it might be of benefit. One for example hoped that the child could become involved in some evening activity, another that the availability of a male would fill the child's needs for communication. Others however, while still subscribing to

individualisation, felt that their child's needs were of a different order.

'To help S you would really need to be a jailer. No it's not funny, I'm telling the truth. You need to be really strict with him. I mean supervision, they just come in and they are nice as ninepence to him and he just sits there and plays on them. You really need to be strict with him, speak rough to him before he understands what you're talking about'.

A number of parents were sceptical from what they had heard of supervision that it was likely to be of benefit, there being little it appeared that was likely to impress upon the child.

'I think if they put him on that what did you call it supervision that would be pointless I think, he'd just not go ... Well I don't know what good it does anyway, are they just having a blether? What about then? Because what has an older person got in common with a teenager of 15 years ...'

Others however were more optimistic and hoped that the routine would remind the child of the necessity of keeping away from trouble.

'Especially if he knew he had to go to this person every week or fortnight and his mother or myself going up with him for a wee report and he knows at the end of that time she's going to put in a report to the court it would make a difference because he would know then that the next time he goes up there she's got all this written down and it's going to go in front of these people'.

This watchdog role was also highlighted by another mother, who suggested the value of an independent outsider. She discussed also whether she felt that the supervision order was a form of punishment of any kind, denying that for her family it had this stigma.

'No I don't regard it as a punishment, I just regard it as a form of help for us, to try and not let him have any more trouble and I think he's the same really, I don't think he regards it as a punishment. I think he just realises that there's somebody there watching him

as well as us now. Because when you're close to them you cannot always be, you're not always right, you see them emotionally and other folk can see them different'.

Parents' expectations of supervision tend therefore as these illustrations demonstrate to be somewhat disparate in nature, a motley assortment of hearsay, faith and suspicion. It is an area in which parents feel uncertain, wary of just what it is to which they have been committed.

Supervision : experience

Parents are much more definitive in their reactions once they have had some experience of supervision and are able to make some judgement on what it entails. A number of the respondents who at some stage had had a child under supervision spoke fairly positively and warmly about the experience. Three main attributes were quoted with approval. For some it was the relief of knowing that 'there is somebody there who has that wee corner of responsibility that you've got', that there is a person towards whom the parent can turn for support and possibly guidance. Others perceived the main benefit as for the child, a friend and counsellor who could develop the child's interests and share his concerns - 'he was good with him, he spoke his language'. A third group however were more concerned that supervision should be a salutary experience and were satisfied that it had 'kind of frightened them a bit', kept the children under better control.

Rather more of the respondents however were critical of their experience of home supervision. A sense of loss is noted from the panel's intentions, an agreement that in the translation into practice 'there is something wrong between the panel and supervision', 'they are there to try and help but the social workers did not follow through'. The strongest

criticism was that there was indeed very little by way of supervision, a derisory number of visits which was far from what had been anticipated. Parents speak of promises broken and contracts dishonoured.

'If they make a promise that they are going to help them why expect M, S or me even to keep my promise that I'll not get into trouble if they fall down on their side of the promise'.

Voluntary supervision is recommended but a social worker never calls, a year's home supervision produces only a couple of administrative visits, belying the declared intent.

'If they're there to help him why didn't they ... well that's a year, he never got any help in the time, he was to be reviewed in June until all this came up but he never received any help apart from two weeks. Now if they're there to help there should be stricter orders left for the help to be given immediately'.

A request for a visit from the social worker yields only rebuff - 'it was then I wanted help, not in a week's time', 'it would need to be a matter of life or death I think before you'd get one of them to come out'.

The strength of feeling was considerable.

'I'm just angry at one thing and I told him here last Friday, Mr F. R was put in his care at the end of last summer ... He's been no more bothered with R than going to the moon'.

Discussing the different social workers and supervision experiences received by her children a mother concluded with resignation 'you cannot be blamed for feeling cynical if you've had a long drawn out experience of them'.

This failing was probably exacerbated by the considerable shortage of staff over much of the study area but parents would prefer honesty to ritual - 'why do they make orders when they ken they haven't got the social workers to take care of them'.

'Granted in L... they are short of social workers but they could have even come back and said 'well look we can't do anything', but I was just left hanging'.

'There's no use a social worker turning round and saying oh but we're awfully short of social workers. If they cannot get people to do the job, I mean the system fails'.

Many of these parents are not necessarily critical of the basic concept of supervision in the home; they are reacting against its practical realisation - 'their basic idea is good but they haven't the resources to carry out their decision'.

'A social order is OK ... the kids got to see her but you tell me the social worker that's not overburdened at the present time and as long as the kid goes along and says I'm here and goes away again that's his report done. The children's panel can't work on their own - some of the things, I've read it, all they're really doing is turning round and telling them to be good boys and all the rest of it. Well I don't think that's the fault of the social workers or the panel I think it's a matter of resources and until you have the back-up system to go along with this I think you're in trouble ... What the panels are doing is being stymied by the fact they don't have the cash, facilities or resources'.

Any attempts to reduce further the level of resources available to the hearing through local authority expenditure cuts can of course only exacerbate the extent of such parental responses.

Comparisons drawn by parents between different social workers suggests however that the lack of resources can be too readily employed as a scapegoat. Parents have experienced considerable variation in the practices of different social workers and point the failings of those who are least satisfactory. The one social worker is able to establish rapport and communicate effectively with the child, the second visits seldom and to little effect.

'That fellow P got a class and not one of his boys got into trouble because he was showing interest, at least when he went up to a panel he could turn round and say and mean it, I've been in charge ...'

The lack of continuity in workers is itself a subject for criticism - 'they seem to drift in and see them for a couple of weeks then they drift away'. Other parents suggest that home supervision could be more effective if it promoted the development of new interests and activities in the child, very much the intermediate treatment model which seeks to broaden the child's environmental experience.

'If they were doing something, putting ideas into his head, making him do something then I would say yes go right ahead ... if you got social workers that got involved in things like that then fair enough they're doing something, they're helping them. But M was on that and never got anywhere at all. If they even got groups away for a weekend, took them hiking or fishing or something. Take them and show them different things ... Spend a wee bit time with them. Then it might work. Give them an interest, something to talk about ... if they did that not just take them up to an office and talk to them because they forget half of it before they're out'.

A practical suggestion was also made that the shortage of supervising officers could be alleviated by centralised visiting.

'There was a social worker here, a young chap, enthusiastic, and he said to me about the same problems about how there was so much he hadn't the time to go round them all. I said well if Mohammed cannot go to the mountain, why cannot the mountain go to them, I says get a place at the school, get them to come and see you'.

It appears therefore that for many parents in the sample a fair assessment of the supervision process was denied to them. Constraints were such that in all but formality the impact of the juvenile justice procedure virtually ceased as soon as they had left the hearing - at least until the date for review. The vacuum was filled by a sense of uncertainty and frustration on the part of parents, doubts that this could

be an acceptable form of supervision but with little by way of alternative example.

These exploratory findings can be compared with those of a small scale study by Giller + Morris (1978) which sought the responses of twenty two sets of parents who had children on supervision for periods between one month and three years. Their somewhat fragmentary findings suggest that eighteen of the parents considered that supervision was helping their child, eight because of the support of the social worker, ten because of the latent deterrent property. Jones (1978) asked both parents and children to conduct a card sort to reveal their attitudes towards social workers. The response was generally positive, social workers being viewed as helpful and caring in their role. Somewhat less favourable were the responses of Canadian parents (Gandy et al. 1975) to the use of volunteers as probation officers, little effect on the behaviour or attitudes of the children being perceived.

Residential placement : expectation and experience

Residential supervision was the disposal in seven of the cases, in four as a continuation of a prior placement, in one as a transfer to a different school and in two instances as a new order. In addition six children were sent to an assessment centre and two were part way through a period of assessment. There is therefore a somewhat limited sample upon which to draw for commentary on the residential placement. Other parents however would refer to aspects of residential care, anecdotes which they had heard or opinions which they had formulated. There tended to be a divergence between the conclusions of those relying on

indirect account and those who spoke from direct experience. The former tended to be more sceptical, to deride what they judged to be the 'holiday camp' atmosphere of the List D school, totally alien to a deterrent ideology.

'Next step to Butlins. My young nephew is there just now. He's got his pocket money, his fags in his pocket, he's got everything, all mod cons, record player the whole lot. He laps it up there. It's better up there than it is in the home for him. So what kind of place is it when a kid enjoys a home more than the company of his own family'.

'They go away one weekend and they're home the next. They go to the pictures, they go to the baths everywhere. They go to places from the home they would never have got to from their own home ... they're too soft'.

More succinctly according to one mother, 'they're there for punishment not nourishment'. On the other hand others who also lacked direct contact likened the experience to Borstal or at least believed the effect on the child would be detrimental - 'he would be ten times worse, it would make him rough and tough'.

The majority of parents who have had experience of a residential placement however express considerable satisfaction with the progress that the child has made. By definition these parents tend to be familiar with the hearing system and are willing to discuss in some depth their experience. Their concern tends not to be with a crude deterrence but with coming to an understanding of the child's problems and needs and with providing the appropriate therapy. A number of parents spoke with considerable appreciation of the opportunities their children had received.

'That's G getting the chance of sitting his O levels now whereas he wouldn't have got that chance anywhere else. To me they've really helped him an awful lot. He's beginning to, when he comes home now he's trying his best to keep out of trouble ... They've finally got through to him, there's something there that's telling him he's beginning to turn, whereas anywhere else he wouldn't have got the chance ... if the panel hadn't been there there would be no hope for G because every time he came out a List D school he'd only have been out then away back again and it would have come to the stage where he ... could only be locked up ... whereas, where he is, he's not locked up, they've got all the freedom they want'.

As with social workers there was discrimination by parents between the different List D schools, particularly where parents had had multiple experience.

'The one he was in was a dirty cowp ... And they more or less treated him just like an animal and when I went T got treated the same ... And then this one at R... which was an entirely different, it was spotless, they treated you, they made them feel a wee bit respectful, they wore clean clothes ...'

There is also a recognition that a child may be directed towards a specific school dependent on his needs - 'they select the school don't they, whether it's strictness they need or just a wee bit caring'.

Not all parents of course are satisfied and for a small number the residential placement has failed to fulfil its promise, there being only deterioration in the child's behaviour. Errors of judgement have been made - a child sent to stay in a glue sniffing household - and offending has increased.

'The homes haven't done him any good either because since he's been in a home he's stolen cars, they've let him out and everything and that's been happening since he was $12\frac{1}{2}$, $12\frac{1}{2}$ years of age, he's coming up for 16, there's no change'.

'As I told the panel I said what's the purpose of keeping a boy somewhere where they're not going to help him, they're not going to make him into a better

laddie because I've already proved they made him worse, he faced up to me, he broke into my meter which he would never in a million years have did before they put him there. So they must have did something to make him like that'.

Parents are also fearful that the residential schools will serve an undesirable training role, exert a contaminating influence -

'They may meet a lot of new mates in there with new ideas they never knew. If they were caught then for stupid things they were told then how to eliminate the stupid things and elevate themselves to a higher class'.

'They go in an apprentice and come out a fully trained tradesman in a lot of things'.

The children conform to group norms, but not the norms desired by the parental group.

The limits of welfare

A number of parents in anticipating both assessment centre and List D school reject notions of punishment and stress the rehabilitative or therapeutic function of the placement - 'if he thinks it's a punishment it's too soft but it's not supposed to be a punishment'.

'I just said to him, look D, you're not alone, there will be other boys there that have got the same problems as you, they are going to help you. You're not going there to be punished, I think he thinks he's going to get punished or something'.

'I've explained to him that it's not an approved school or nothing like that he's going to, it's just somewhere where they'll maybe able to help him better than what his Dad and I can, get through to him sort of style'.

The implication of these statements, a recognition of individualisation, and the logic of Kilbrandon suggest that there should be no distinction between those who have committed offences and other children who may be

in need of compulsory measures of care. It is interesting however that very few parents are able to accept the validity of this progression; though they may argue from a perspective which stresses the welfare of the individual child the ideology rarely extends to subordinating the grounds of referral. This is particularly evident if the suggestion is made that the List D school should cater for children referred for a variety of reasons, offenders and non-offenders together. Again the major concern of parents is that to mix children from different referral categories will result in contamination. Opinion is voiced in no uncertain terms.

'There are the good and the bad and you usually find the good go bad rather than the bad going good. Where there are some who have been in trouble they are more likely to bring the other ones down to their level than the other way'.

'I don't think that's very fair putting youngsters who are there through no fault of their own I don't think they should be tied along with youngsters who have committed offences because they are bound to come in contact with them and it's just like a bad apple in the barrel, it will spread, it's bound to'.

Despite evidence from Rushforth (1978) which suggests that offenders and non-offenders in List D schools in fact differ little in background and previous offence behaviour, there are strict limits to principles of welfare. It is only a small minority who have recognised

'To me a List D school was going to be quite hard for him but I understand there is quite a lot of children in there like D that are at these schools, they are all children with sort of emotional problems I suppose',

or who are able to reflect - 'what's the old saying, there's some good in the worst of us, there's some bad in the best of us'.

A similar clue to parent's ideological commitment is revealed in their reactions when more than one child has been referred for the same

offence. A philosophy premised on need would consider parity between disposals irrelevant and would allow for maximum divergence in sentencing. Parents however can only occasionally accept this logic.

'Each kid is an individual and therefore the punishment could be different for each one, I'm not saying the two cousins would have welcomed a holiday in a residential school where our kids might not have, but they'd need to have judged each case on its merits'.

The arguments are exposed in this exchange between two parents.

- F. 'If J got a supervision order the laddie T he should have a supervision order as well
- M. Everybody's not the same though, you cannot say that, everybody's not the same. Maybe a supervision order wouldn't be the thing for them, you don't know them well enough to say
- F. I think it would be unfair to send a lad like that away if he's just done the same as what J done, I know he's a leader, no two ways about it, and I've told J to stay away from him but at the same time I think it would be a damn sight unfair if they sent the laddie away and J was put on a supervision order, very unfair
- M. Well, they would have to look into everything'.

The majority of parents echo the sentiments of the father; an injustice is perceived and one for which they have no explanation. The concept of fairness is again breached.

'Why should one get sent, fair's fair. It's not fair as far as I'm concerned what's going on. R's been away twice I told you and he's still going about yet. He is supposed to be going to D... but he'll go for three weeks and when he comes out that's him scrubbed. He'll not get put away. That's this other laddie that's did worse, ten times worse than R and he's still going about'.

Similar injustice, even bewilderment, is felt by another mother when she compares the experience of two of her sons at List D school.

'That's another thing I don't agree with, now he (J) was away for 9 months but during that 9 months he'd run away, he'd lost I couldn't tell you how many leaves, he got two other charges, yet he did nine months.

He (G) had to do 9 months yet he never got another charge, he never absconded, he was never late back from leave or lost a leave. Now they both had the same amount of charges so why should he get the same as him, now there's something wrong there ... how did he do the same time as him, and yet he was what they call a model pupil'.

However much parents may speak of helping the individual child and of finding the reasons for his offending rarely will they permit the unfettered discretion which would be the natural conclusion of such a philosophy.

Alternative disposals

The disposals available to panel members are comparatively restricted in scope, although there is potential for the imposition on supervision requirements of a more varied range of conditions and for the promotion of the activities followed as intermediate treatment. During the interviews with parents a range of alternative suggestions were aired. In addition if attitudes had not been offered voluntarily parents were specifically questioned on two alternatives, the desirability of a hearing being able to impose fines and the possibility of panels being able to specify periods of community service.

- community service

Very few parents were opposed to the principle of developing community service as an alternative disposal and many spoke enthusiastically in its favour, often at their own initiative. The reasoning which led parents to endorse the principle varied considerably however and their justifications for the measure revealed further evidence of individual

ideological leaning. Two major themes and one lesser predominated. For some parents the primary interest was that work in the community would provide a means of reparation, an opportunity for the child to make good, either directly through for example repairing the damage of vandalism or cleaning up spray paint, or in kind, a symbolic acknowledgement of the extent of wrongdoing.

'To say right you have done wrong, to make them pay for the damage they have done to go out and do old folks gardens and make them work to pay back what they've done'.

Martin (1982) argues that reparation should refer only to a response from the child towards the individual victim; its wider extension (as in a recent SWSG circular of March 1982) to for example work for the community is inadmissible. That the principle of reparation should be extended to the children's hearings was in fact a recommendation of the Dunpark Committee (1977). Several parents link the notion of reparation to an element of deterrence, the child being disinclined to incur further similar orders.

'If they had a panel system whereby they had to do something to repay ... I think if he had to give up so many hours of his time to do something he would be saying well I'll not be doing this again'.

If the child has to sacrifice his time, they argue, possibly at the loss of a favoured activity, he will prefer to disengage from the unacceptable pursuit.

A somewhat different strategy for deterrence is in the minds of parents who consider that the value of community service type activities is that they provide a constructive alternative to boredom, a productive use of leisure time which keeps the child off the streets and away from the risks of opportunistic offending. These are parents who tend to cite

environmental factors as one of the major causes of juvenile delinquency and advocate a wider provision of diversionary activities.

'They are needing that because they turn round and tell you that they're bored ... I've seen young laddies that's been on the glue and they tell you there's nothing to do'.

Such parents are less concerned with any punitive intent, looking rather to a natural reduction in offending as children take advantage of more constructive alternatives.

A third though less prominent strand emerges from the various justifications for community service and this is a suggestion that the actual encounters during the various forms of community service would have a beneficial impact, inducing a sense of responsibility in the child, extending his experience and thereby reducing the limiting self-centredness.

'When they see what they are doing for other people, that might be just what they need. Like they see it's an old age pensioner and they've to dig their garden, well they'll say poor old soul right enough she couldn't do it herself, then they start to think of other people not themselves ...'

The stress is on self motivation, on the child being made aware of others in the community and of his own potential within that community.

For a handful of parents no further justification of a community service recommendation is necessary; the child has done wrong and therefore in retributive fashion he should be punished. An appropriate punishment is that he should be made to work. A few would go further and suggest that the child should be held to ridicule, wide publicity being given that these certain jobs are specifically reserved for offenders.

'no go about with signs on their back but if they published it in the papers that they're keeping the scheme for boys and girls that got into trouble. I think that would be a good thing and it would sort of ridicule them in a way'.

- fines

Compared to the enthusiastic support which, whatever the motivation, parents lend to the concept of community service requirements, their response to the proposal that the panels should have the power to impose fines is far less energetic. Indeed the majority of parents reject the idea outright, with less than one tenth of parents speaking in its favour. The fundamental objection to the fine is that few children are in a position to finance the penalty and therefore the burden falls upon the parents. Parents rarely consider themselves to be responsible for their children's offending (Chapter Ten) and therefore see no reason why they should be penalised while the child is relieved of all responsibility. For many parents the rejection is primarily one of commonsense - 'why should the parents face a fine when it's not them that's in trouble'.

'But that's not the child that suffers that's the parents. The child would just go and get into trouble again, oh my father's to pay it now that's not actually punishing the child is it?'

But others recognise a wider ideological base.

'I don't agree with that because I think that's going back to the old way, the juvenile courts again, it's like a punishment on the parents whereas now they're trying to help the child'.

There was also a suggestion that in many families where money was short the fact that the child had incurred a fine could exacerbate rather than

improve family relationships.

'Naturally I would pay it but I think it could cause the very opposite of what you're trying to achieve because some parents mightn't forget. I'd be bad enough but some would be a lot worse than me'.

The few who spoke in favour of the principle tended to stress the beneficial pressure that could be exerted on the parent,

'If you are going to pay a fine for your children you are going to make sure they are supervised at home and out yourself'.

'Each time that wee boy next door goes to the panel his mother doesn't bother but if she got fined she probably would be bothered'.

Interestingly a small number of parents did propose, on their own initiative, that the panel should be able to order financial restitution to the injured party, perhaps by way of supplement to another disposal. It was considered only reasonable that if a child had stolen or damaged property he should be ordered to compensate the appropriate amount.

Several parents have of course had experience of fines imposed by the courts for non-attendance at school. This does little to enhance their attraction, merely confirming for most that the focus of attention is being misdirected. If the parent ensures that the child leaves the house for school and is not colluding in his absences it is the child rather than the parent who should be motivated.

'I don't agree with the parent being punished for something the child does, not if they are a parent that's trying. Fair enough if it's somebody who when they waken the kids for school and they say I'm not going they just say oh fair enough, no way my kids get doing that'.

'If they fine me what can I do I can only pay the fine - it doesn't help the boy any ...'

Parents are of course not alone in their rejection of the principle. Kilbrandon himself considered the option of fining but rejected it on the grounds of its incompatibility with a system directed at education and training. The Consultative Memorandum on the hearings in 1980 sought responses on the desirability of imposing fines on children. As a result of the representations that were made no further action was taken on the proposal (Murray, 1982).

- other alternatives

A form of community service was the most popular alternative to the disposals currently available to the panel. Parents also however proposed various other alternatives, either to supplement or to replace those already in use. Their reasoning behind these suggestions varied. A number were concerned with earlier intervention, and intervention with a greater deterrent value. Their suggestions ranged from the birch (seven families) to a detention-centre type facility, the aim to administer the traditional 'short sharp shock'.

'They should make it a short sharp lesson. It's like the army over there (G...), the List D schools have not the same way of doing it. That's the best thing that could happen to them ... They don't forget. They don't forget all that, like the lesson of getting up early in the morning and keeping themselves spotlessly clean'.

The impact on the child is also stressed by one of the supporters of the archetypal punitive response, the birch, the parent recalling the effect in his own childhood.

'I believe in capital punishment, I believe in the Isle of Man, I think the Isle of Man laws is quite correct. When we were young we got a good hammering, that was it done and over with but at the same time for

all the hammerings I ever had off my father I can safely say it sunk into me. I learned a lot through it and I respected my father for it'.

In similar vein parents suggested that a child could be given a taste of prison conditions, a night in a cell or a fortnight in Borstal, a foretaste of what lay in store if offending should continue.

'At first they should give them something kind of sharp, let them know how it could be when it does get tough instead of putting them in at the bottom end where it is nice and cushy. They could say right we'll give you fourteen days in something like Senior Borstal, a quick fourteen days to let them see what like it would be ... they might appreciate what's in front of them if they just keep going the way they are going'.

Other parents, still searching for some measure with greater impact, compared unfavourably current supervision practices with those delivered under traditional probation and proposed a return to what they perceived as the more rigid and demanding requirements of that system - 'the old fashioned probation officer, who cared, who didn't say I'll be out next Wednesday and never appear ...'

A number of other parents however expressed a somewhat different dilemma. They felt that the choices available to the panel were overly restricted and expressed the view that there should be some opportunities between the traditional home supervision placement and the committal to a List D school. Day schools for example should be developed (as in a number of specialised units) or there should be residential placements 'in between homes' which avoid the perceived stigma of List D. Echoes of Intermediate Treatment type facilities were again in evidence, for example a suggestion that a child should be placed on a scheme of organised recreational facilities. One father contrasted his own attempts to help children - 'giving them something to do to keep them out

of trouble, maybe on a summer's night taking them away fishing, really helping them ken' - with what he considered the sterility of the panel - 'they didn't do nothing for him on Tuesday night, it didn't make one iota of difference'. The theoretical attractions of Intermediate Treatment schemes are endorsed by those who have experienced them in practice (Jones, 1978; 1979). Indeed the comments of parent and child, with stress on diversionary and fun elements, tend to be more favourable than those of other participants.

A number of parents however found it difficult to perceive of alternative disposals. If they did not have strong reactions to those available, not greatly familiar with them, they were perhaps content to accept the status quo. In addition a number of parents expressed reservations that there should be any extension in power to a panel composed of lay members. They were already able to make orders of sufficient, if not excessive, intervention and any attempts at what could be seen as an extension of these powers should be resisted.

The role of the police

A number of parents spontaneously referred not to an alternative disposal but rather to an alternative to the panel system itself. These parents considered that with children a greater credibility would result if the police were involved in some way with the administration of justice. Some of the parents see a need for immediacy, for a more rapid response to the offence itself, and suggest that in relatively minor cases, 'children's mischief', the police should be able to administer an immediate reprimand, a warning to the child or a report to the parents.

Indeed several parents refer with approval to the summary justice of their own childhood, the proverbial 'kick up the backside' from the police officer, often it would appear in response to the seemingly ubiquitous crime of 'nicking apples'.

'I mind I was in trouble when I was awfully young like, but what I used to get was a telling off from the policeman and a kick up the backside. I think that was the best thing to tell you the truth'.

For most children a policeman is a figure of authority - 'most kids if they know the police are involved know there is something the matter'. It is easier, these parents argue, for the child to understand and to be deterred if the police themselves have power to intervene. If they can only refer elsewhere it has no impact on a child for whom nothing beyond the immediate present is of relevance.

'If they gave them a hard kick on the backside they'd maybe think twice, they say oh he'll not say anything they just write it down on bits of paper. I've heard the young ones talking and they're not the least bit frightened'.

There is another thread also however to the preference for the immediate. This reflects a concern that through the lengthy process of referral to a hearing what is regarded by the parent as a trivial offence assumes uncalled for importance. There has been a redefinition in the new system which increasingly extends the grounds for intervention - 'years ago, everybody pinched apples, it wasn't a crime but now it is classed as a crime, they are taken to the panel for that'.

'Sometimes when I was young if you went and plundered an orchard or something and you got caught, you maybe got a kicking or something whereas now they send for the police and that's you charged and up in front of the children's panel and all the rest of it, which is a waste of time really'.

Those who adopt this non-interventionist stance regret that incidents formerly dealt with within the family or community are now handed over for official adjudication. The intervention originates from both sides, be it with authority,

'The situation is when I was younger if I did something like that, a man battered me in the face and I went and told my father he would have battered my face as well. Now the situation is all changed, that way like. If there was a fight in the middle of the street, all there was was a big crowd and you got in about it, if you won you won, if you lost you lost, you didn't get charged or anything',

or from the public itself

'I don't run for the police when any of mine get hit yet it seems that everybody else runs for the police when mine hit them ... it's a lot different now, they run for the police for the least thing ... if I got the police every time I needed them there would be an awful lot of folk up on assault charges'.

Immediate police action therefore is preferable to a lengthy referral but at times what is needed is perhaps just a reduction in the overall level of intervention, allowing the community to absorb and to settle its own complaints.

Parents also advance however a second argument for the role of the police, a suggestion that the system of police warnings which has been operated in some areas should be more widely applied (Mack, 1975; Farrington + Bennet, 1981). Where children have experienced a police warning it is generally spoken of with approval, the appearance before the Inspector or whoever having induced within the child a recognition of his wrongdoing and sufficient fear to act as the oft sought deterrent.

'It was his first time in front of the Police Inspector that frightened him ... that did him more good going in front of that Inspector than going to the panel'.

Or at least temporarily for as the father in the following exchange pointed out

- F. But wait a minute, if he was in front of this big guy who was doing all the roaring what good did that do him because there he's done something else
- M. Yes but he had plonked the school and went with all them
- F. Yes but you were saying going in front of this big policeman and getting a right lecture and frightened was better but it didn't work
- M. But that was stealing turnips it wasn't a motorbike
- F. But it couldn't have left an impression on him
- M. Oh it was entirely different.

Parents are striving as they search among the actual and potential alternatives for a disposal which will most likely achieve the ends of their ideological requirements. They scrutinise the reality of those disposals available and if they find them lacking they cast around for more promising alternatives.

Summary

We have examined in this chapter the perspective which parents develop on the decision-making process, the extent to which they endorse the decisions and the understanding which they express of their origins. Those who have experienced specific disposals are questioned on their response and the range of alternative strategies which have been proposed by parents are examined. This examination of preferences links to the following chapter in which parental preferences on four particular aspects of the hearing system will be specified.

CHAPTER NINE : Preference

'I think the parents should see the reports that they put in ...'

There were a number of issues which were raised fairly regularly during the interviews and which can be most readily interpreted as the expression of preferences. Parents present their arguments for a preferred strategy, revealing again underlying elements which contribute to their individual ideology. These preferences will be discussed in four major areas: their choice of hearing or court, their views on the status of those who should form the panel, their attitude towards the undisclosed report and their assessment of the role for legal representation. Each of these issues will be explored in turn. It should be noted that in exploring these preferences many of the themes which have emerged in the preceding discussion again recur.

Court versus hearing

One quarter of parents express the opinion that they would prefer children who have offended to be dealt with at a court. These families vary in their experience of hearings. For eight it was their first experience, twelve had attended between two and four hearings and five of the families had been to five or more. In making this choice some of these parents will have in mind court illustrations which they have experienced or have observed; others will be relying on images culled from imagination, hearsay or the media. Whatever the origin the choice for a large proportion of these parents is motivated by the desire that the experience

the child undergoes should impose sufficient fear that it acts as a deterrent. In opting for the court they are making a statement of what they consider to be the inadequacy of the hearing in this respect.

'I think it would have given him a bigger fright if he had been put in front of the sheriff court, it would have let him see that he had done wrong and he was being punished for it. But I mean giving him a talking to is not punishing him, not in my mind anyhow'.

A mother with considerable experience of the system vividly points the contrasts between the two alternatives.

'If you were going up to a court for something you've got more nerves in your stomach you could make lacy curtains with the nerves in your stomach, there's nae exceptions to that, I mean there is nae exceptions to that feeling, that fear of going to court. Now quite a few of them's been up to the panels, they're maybe making their seventh appearance back at the panel, neither by shouting and bawling at them in a panel or being nice to them are you going to alter the fact that the panel hasn't got the authority the court has and they know it'.

It appears that this authority is not necessarily one which can impose anything different by way of disposal, it is sufficient in itself - 'it would have frightened him. Even if the punishment at that court had been nothing, the authority was there'. It is an authority which stems from the symbolic atmosphere of the court, the rituals and rhetoric exposed by Carlen (1976) and summarised by one mother as 'all feeling and senses'. This would appear to be the logic behind a father's rejection of a hearing at which none of these attributes were in evidence.

'It never achieved anything. It was no help. He didn't even understand he was at a court. That's not a court. I could set the same thing up through in my back room, I could get my pals round there to ask him the exact same things they did, do the same things but they would be a bit more serious about it ... not sitting and laughing and joking with him and mollycoddling him like they were doing'.

It is the 'judge with the wig' who, on the account of these parents, inspires the fear and creates a desire in the child not to reappear before him.

'The minute you step into a court, you know it's a court because you can feel within yourself it's a court. From his age onwards especially his age when he sees a man sitting there looking over his glasses with a stern look on his face, that guy is not sitting and laughing and joking ...'

A smaller number of parents favour a court rather than a hearing for a somewhat different reason. Although a minority they are concerned with many of the doubts raised by the 'justice for children' lobby (Morris et al, 1980; 1983). Amongst these parents there is a general undercurrent suggesting a dissatisfaction with the general standards of justice displayed by the panel - 'they are biased against the child from the start before you go in, there is no justice in them, they just don't listen'. Preference is expressed for a court with comments to the effect that 'they've no law, where they should just take you to the court', 'you'd get a fairer do ... far better chance of getting justice'. Some parents recount more specific incidents which demonstrate a particular concern with the issue of proof, suggesting that the hearing may be unduly lax in this respect and that the rigour of the court would be preferable.

'If it was any other court case, if it was the High Court, it's got to be proven, but the way that boy was talking he was proven guilty before he even went up'.

'With the children's panels you cannot argue against a policeman because he just says right B's committed an offence. If he went up to that court there'd be a policeman on a stand and you could ask him questions and that but if it's referred to a panel well that's it forgotten about as far as he's concerned'.

There is amongst a few a general sentiment that the court is more thorough,

likely to investigate more fully the local circumstances - 'to me it's not really looked into, where it would be at the courts, it would be much more serious ... they're people that really look into it'.

Those who opt in their preference for the hearing, the majority, do so for a somewhat wider and more diverse range of reasons. A number of the explanations point the divergence in ideology between the two groups and cite the opposing image to that selected by the pro-court lobby. The most fundamental explanations refer to the purpose of the hearing and suggest that it fulfils a very different function to that of the court, one which they endorse.

'The panels aren't there to punish them, they are there to help them, like the court is there for punishment, so when they are finished with the panel and they have to go to the court, then that's a different thing ...'

The hearing is concerned to identify the reasons for the child's appearance before it and therefore greater discussion ensues. The child is an individual who requires a solution personal to him rather than a case which receives a standardised disposal.

'At the hearing they were discussing G as a person, at the sheriff court they weren't really discussing because with three boys involved they weren't discussing one, it was just this is the crime, this is the punishment and that's it'.

'When you went up in front of the sheriff it was just a case of he's done such and such a thing and he was put on probation and he got into trouble again but I think at the panel you can discuss a lot better the outcome of what's going to happen ... I prefer that to going in front of the sheriff. He's not got details or anything like that, it's just a case of he's committed a crime and a matter of him making a judgement. Whereas at the panel they sit and talk it over then decide'.

At least one mother considered that it was only because of the opportunities

provided through the panel that she could speak of a future for her son.

'G would never have had a chance with the sheriff because they've too many cases to deal with and it's as quick as they can get it over and done with. I feel that the panels have gave G a chance to make something of his life and I hope he comes out alright through it but he wouldn't have that chance otherwise if it hadn't been for the panel and his social worker'.

But it is not only the different philosophy for sharing and communicating ideas but also the practical opportunity for doing this at the hearing which parents cite in its favour. At the courts parents would either be prevented from contributing or the atmosphere and routine would be such that they would feel inhibited from saying what they wished.

'I would rather go there than the court. You can get your say there, you wouldn't get your say in a court. You would be told to shut up'.

'In court you've more or less got to speak when you're spoken to, but likes of a panel you can interrupt whenever you want to, if you want to bring a point up, in a court you have to wait until you were asked to speak, till you were asked to say anything'.

In addition to the greater opportunity for participation parents also speak favourably of the privacy which is granted by the hearing. There is no fear of spectators or of reports in the press and this reduces for parents the stigma of the appearance. One parent recalled with dislike the degradation ceremony to which they had been subject during an appearance at the sheriff court.

'I didn't like it at that court, I felt like a criminal sitting there and I was just along with him, and this man he was that abrupt ... and I thought a wee bit mannerism wouldn't have hurt them, you felt you were a criminal the way here, there, the way he was talking to you, and I thought oh dear I hope I never have to come back ...'

A somewhat different preference for the hearing is expressed by those who see it as a diversionary mechanism, an alternative justice system which removes the necessity for the child to appear in court - 'it's to save the bairns going to court'. Various benefits may be perceived in such a diversion (though diversion itself has become the object of considerable disquiet (Bullington, 1978; Lemart, 1981).) For some it is purely instrumental, an administrative convenience which reduces the burden on the courts - 'to me it's a good thing, I think it takes a lot of the pressure off the courts'. The referral may be deemed too trivial - 'one time silly offenders' - to merit the attention of the court, 'courts are busy and it prevents trivial things going to that extreme', or the argument may be that the court is an inappropriate setting for the adolescent child. He is not totally responsible and should not be burdened with the record of a court appearance while his character is still unformed.

'I don't think it would have been right a 15 year old going up in front of a court. I don't think it would have been right at all. I know he's done wrong and that but he's only 15 years old and he doesn't really know anything so I think that was the best plan the panel'.

'A child can get into trouble up until he's 15 or 16 then just change like that once they start working and that, they're different altogether'.

Offences committed by the child are granted a different order from those of an adult. The panel is seen as giving a second chance to the child, of allowing him the opportunity to prove his misdemeanour was a temporary lapse.

'If he'd gone up in front of a court he'd be frightened, he'd have a record then, he's given a chance there - the silly big boy he is'.

A couple of parents shared their fear that if their child had appeared at court the appearance might have bestowed an undesirable status on the child, a respect from his peers which was of dubious origin - 'it would have given him a wee bit more to brag about'.

'A court might give them bigger ideas and make them think they are more important than they are. I think that's where a lot of them have maybe went wrong. They've went to court and got bigger ideas'.

The situation has to be carefully assessed to achieve the maximum impact but with the minimum intervention.

For many parents their images of a court and of the hearing are primarily an impression of the key personnel and of their dominant manner. There are the colourful references to the demeanour of the judge and a whole variety of reactions to the individuals on the panel - 'the woman hadn't got any grasp of the situation of our family type ... the chairperson I would take him with a pinch of salt ... the other lady, she knew exactly what the score was ...', 'Mr Jekyll and Mrs Hyde and Mr Beaujangles ...' It is appropriate therefore to move to a discussion of the preferences which parents express over the composition of the panel, the sort of people they think should sit as panel members, continually keeping in mind, as the discussion shifts, the themes which are interwoven throughout the discussion. Some parents for example are motivated in their choice of panel members by the wish for a deterrent experience, others, more concerned with effective participation, look for those who will put them at ease.

Panel composition

In the early days of the hearings the composition of the panel provoked much debate and provided the subject for a number of the early research papers on the system (Smith + May, 1971; Mapstone, 1972; Rowe, 1972). There was intense discussion amongst both participants and observers as to the preferred attributes of panel members, individuals fiercely defending their chosen stance, in particular on the class origins of panel members. Martin (1978:84) for example thought the subject a red herring, asserting 'the class composition of children's panels has always seemed to me a matter of minor importance'. Others however considered the imbalance of the panels to be a major failing with Rowe (1972) quoting the declaration of Spencer that 'there should be a very substantial representation of the working class'. In recent years this particular debate seems to have faded, replaced perhaps by a resigned complacency although Watson (1983) has recently criticised Murray (Martin + Murray, 1982:16) for the conclusion that 'it may be unrealistic to suppose that perfect representativeness can ever be achieved'. Amongst parents however many of these issues still provoke strong debate and it is this debate which we shall explore.

The guidelines on panel composition provided by Kilbrandon, by the White Paper Social Work and the Community (1966) and by the various CPAC working papers were both uncertain and ambiguous, worded in the most general of terms and with key concepts left undefined. In an excellent study showing how it is only through the practical accomplishment that the reality of policy can be ascertained May + Smith (1970) have traced the way in which the vague statements in the legislation fail to provide a coherent

blueprint for action. In their study of recruitment to the Aberdeen panel (Smith + May, 1971) they illustrate the translation of the ill-assorted concepts into recruitment practice. From the 1966 White Paper three different strategies can be identified. Panel members should be acquainted in some way with the area from which the child comes - 'personal knowledge of the community to which the child belongs' (para 81), recruitment should be broad based - 'from a wide variety of occupations, neighbourhood, age group and income group' (para 76) and efforts should be made to attract those formerly excluded from such types of service - 'whose occupations or circumstances have hitherto prevented them from taking a formal part in helping and advising young people' (para 76). From the Kilbrandon Report itself however there is only the directive that members should be those 'who are specially qualified either by knowledge or experience to consider children's problems' (para 92a). As both Mapstone (1972) and Smith + May (1971) discover, the realities of recruitment are such that individual suitability for the task, the personal qualities of the individual, take precedence over the desire for community based representation. The resulting panel, encouraged by traditional rather than innovative routes of recruitment, is composed in the main very much of those accustomed to such public service, the articulate and professional, those able to present themselves in the appropriate format. Panel members are unlikely to be unemployed or divorced, unlikely to be struggling on a low income or to live in a neighbourhood deprived of facilities. To many parents this is far from satisfactory.

The major split amongst parents on this issue of panel composition is according to whether they think that panel members should retain their lay

status or should be full time professionals. The lay nature of panel members is of course, as we found at Chapter Five, problematic. Though we may contrast the lay nature of the children's hearings system with English juvenile courts, magistrates there are of course also lay members, as are members of a court jury. The distinction for parents appears to be whether panel service is a full time position for which members are trained, though again the question of training is not without problems also as it is undergone in some form by all panel members. It is a model of expertise gained through training and repeated encounter, a preference for the authority and competence of the professional who acquires credibility whatever her personal characteristics.

'If they were doing it five days a week they would understand what is going on, they would realise what goes on, not just in their type of environment but in every environment, this is why a judge is a judge. He may be a snob let him be what he is but he understands things about life that these people will never understand'.

Many of these parents would endorse Kilbrandon's requirement of those 'specially qualified either by knowledge or experience' but would grant this status only to those who have in fact acquired it by dint of full time application. They are concerned that the lay alternative is neither legally nor morally qualified to give judgement on a child.

'I think they should be at the least, the very least four days a week doing the same job, getting into it, understanding what's going on, understanding the kid's background, knowing as much as they can about the kid, not just coming up there once or twice a fortnight, sitting down with a pile of paper in front of them, sheafing through it and making an assumption from what they read'.

Several parents ask that at least one panel member be experienced in the law, perhaps even an ex policeman, and a number, even amongst those that

endorse lay membership, believe that only a court or equivalent legal authority should have the power to send a child from home. There are limits to lay discretion, a view endorsed by Woodson (1965) in his response to the proposal by Elson + Rosenheim (1965) that lay personnel should be given a role in the US juvenile court system.

Approximately half of the parents would prefer that panel members should be full time, a choice that often seemed to arise more from a suspicion of the lay alternative rather than from a more positive endorsement of a full time preference. There is a suggestion that the lay member is not wholly competent

'Somebody that actually knew what they were talking about, somebody that hasn't just seen the whitewash on the step and the brasso on the door knobs',

and moreover a suspicion of their motivation in seeking election to a panel. They were those with time on their hands, casting around for another committee, or they were well intentioned but ultimately incapable.

'I have the same feelings for the panel as I do for some of our lay magistrates ... they are basically untrained people, people whose possible intentions are right but on many occasions their ambition outstrips their capabilities'.

There is also a resentment that the untrained and the inexperienced, 'anybody off the street', should presume to advise or to take judgement on their family. If there is no distinguishing characteristic which sets her apart it is difficult to grant authority to the anonymous individual - 'without taking a training of some kind I can't see how you can sit and judge somebody else's child'.

In expressing their preferences on panel membership parents are revealing what they believe should be the appropriate expertise for the

conduct of a hearing. The hearing is not concerned to establish guilt therefore a judicial competence may be irrelevant. Nonetheless there may still be different stages of the hearing at which different abilities are required. During the substance of the hearing a capacity to promote confidence and inspire discussion from the family may be necessary, towards the end an ability to switch to decisive decision-making. As it cannot be guaranteed that panels will be composed of individuals designed to balance the different requirements it has to be assumed that the individual panel member will fill the different needs.

What is it that, for the half of parents who accept a lay status, would give panel members credibility? Two major and related themes emerge. Panel members are accepted if they are seen to share the common experience of parenting, if they have had children and have lived with the problems and responsibilities of bringing them up. Secondly and more specifically, panel members should have wrestled with the same problems as the people before them - single parenthood, a derelict environment, police brutality. Those who spoke of the shared experience of childrearing tended to endorse what they had experienced and to speak favourably of the panel composition.

'I always feel that likes a mother with children would understand more than maybe a judge in court. They could understand your problems and the problems that children have'.

Alternatively they point the failings of individuals they have encountered who lack this experience.

'I think ordinary folk, if they've had families they know the problems that you have with a family whereas if it is a young lassie who's been trained to do that who has no family, no grown up family and doesn't know the problems that you go through, I mean how can they tell you what to do'.

Those who sought a more specific shared understanding were often critical, feeling that this awareness was lacking amongst those they had met.

'I'm a single parent. Do any of them understand what it's like to be a single parent if they weren't actually single parents. I maintain they should have somebody there who is a single parent and it would maybe give them an idea what was wrong'.

'It all boils down to one thing. I think it should be somebody whose kids have been in trouble that can understand not skiff the surface, get underneath where it counts'.

This common understanding is the key to much of the preference. Indeed it may transcend the lay/professional divide, for what is required is that panel members should have had direct experience of the situations and problems under discussion, either personally through the rearing of children, preferably in similar environmental and economic circumstances, or professionally through training and practice.

'I always feel somebody's got to be in a position before they can understand so I mean if anyone on that panel had never had a tearaway son that broke into shops and sniffed glue, do they understand what he's going through and what I'm going through ... Either they should have experienced it themselves or have the experience because it's been in front of them so many times that they know how to handle a situation like that'.

Both these strategies are acceptable; it is the amateur who lacks a shared perspective who is rejected.

If they opt for a lay panel parents stress community representativeness, the very element which as we have demonstrated above lost out during the implementation of selection procedure. The argument for the shared perspective is of course that only if panel member and parent are speaking with a common knowledge can they hope to have a constructive debate and

reach a practical resolution. One mother for example was angry at the advice given to her son, judging that it reflected a total lack of understanding of the child's world.

'To my mind some of them's away in a world of their own, they didnae ken what it is to live in a housing scheme ... Now she told him, he'd been involved with fighting and she says to him 'when somebody's going to fight you then just say excuse me I'm needing the toilet'. That's the god's truth. Then she says to him if you went out there and one of your pals was getting beaten up with a bunch of boys what would you do. He said I'd jump in and help him, she says no, you shouldn't have said that, you should have walked by. Now they're putting bad marks on him for doing a natural instinct, to my mind she honestly didn't ken what she was talking about ... I told them it's like a jungle, you kill or be killed'.

Indeed this example compounds two different failings: on one level there is advice that to the parent seems merely foolish; at a more pervasive level there is the insistence on the individualised response to what is seen as a more structural problem.

Another respondent spoke at length of her experiences with the police, concluding that the panel could only be credible if they were willing to admit the validity of these experiences. This was unlikely unless they themselves were of the community in which such experiences were familiar.

'For a start they've got to believe that and understand how the police are before they can understand how we think and how we feel ... Most people that's got money and that didn't really understand how the police work. They could never in a million years, and most of the people that sit on that panel wouldn't even imagine the way they speak'.

Parents in such circumstances found it difficult to imagine that the hearing could host much constructive debate.

The problem of the class bias of panel membership was confronted by a number of parents. Building on the sentiments already expressed,

several craved the ease of communication or the empathy of their own class, 'I think the working class man or woman would have more insight into how they get into situations like that'. They recognised however practical limitations, particularly the constraints of employment: as one mother commented somewhat wryly

'Them that are on the panel are a class above us because we're working class, we need to work and they're not'.

The more professional the nature of the employment the easier it is to take time off for panel duties without loss of pay or risk of disfavour. Others voiced their responses to those they had encountered - 'I still feel they are not working class, not the working class people who are sitting on the panel'. Some interesting discussions developed around the issue, with several of the classic arguments being replayed, for example the tendency of a panel member from the same class to be more or less lenient, the extent to which those identified as the working class membership are in fact truly representative (Bruce, 1978). Indeed the extent to which they could be truly representative,

'I realise that the chairman has got to have some workable knowledge anyway about court and so forth, but if you take somebody from the working class and try and teach them, you take them out of their own bracket anyway so there's no easy solution to it ...'

One interesting point to emerge from the dialogue on panel composition was the extent to which parents felt that they themselves could be panel members. One parent in fact volunteered 'I'll tell you something. I wouldn't mind sitting on a panel myself because I think I could judge as well as anybody'. But others were more wary, feeling uneasy that they should be allocated a position of authority over other parents - 'I don't like sitting in judgement on other people'.

'I don't feel that I'm in a position to say what somebody else's child should get and shouldn't get ... it's somebody with experience that should deal with something like that'.

Or more prosaically, 'No use me trying to do something to help folk because I cannot control them so I cannot control other weans'. On a related issue, three or four families specifically requested that panel members should not be personally known to them independently of the hearing, and recalled their confusion and embarrassment on occasions when this had occurred. There was also a concern that in small village communities rumour and hearsay would be reported by panel members who perhaps knew the child by sight only - 'he was the minister and as far as I'm concerned he was going by hearsay'. Good practice would of course suggest that panel members personally acquainted with the child would step down from the specific hearing but this practice is not always adhered to. Like many aspects of the hearing process there is a discretion, even at times a lack of clarity, which permits practice itself to vary widely.

The confidentiality of reports

The discretionary element certainly runs high over the disclosure of the substance of reports to parents. We have already examined in Chapter Seven the extent to which the content of reports was discussed at the hearing, and have touched on some of the confusion that surrounds the interpretation of the guidelines (see also the discussion at Lockyer, 1983). We have also, in discussing the expectations with which parents approach the hearing (Chapter Five), suggested the significance which the report may assume in the minds of parents at this stage, aware that they are preceded by reports which inevitably will start to structure the panel

members' deliberations. The report therefore is a key factor in the operation of the entire hearing, a shadowy presence whose existence is acknowledged by virtually all but whose content is known to only a privileged few. Again we have referred at several points to the extent to which this exacerbates the already uneven distribution of power, strengthening the hand of those who are in the position of authority. Moreover, Fox (1974b) suggests, reports tend to emphasise more negative aspects. These in turn are pursued by the panel members who, rather than seek fresh data, rely on the social worker's interpretation.

The family approaches their first hearing wary and ill-prepared, and with little by way of knowledge to act as ammunition. When they enter the hearing however they are not entirely unknown to the people sitting on the panel. From the reports of school and social work, occasionally others, each panel member has begun to construct its image of the family and its individuals. Yet in the majority of cases the contents of the reports upon which these images are built are unknown to the family themselves. Particularly amongst social workers there is lengthy debate about the merits or otherwise of confidentiality in reports (e.g. Bean, 1976; Hardiker, 1977; Taylor et al, 1979). In the study areas those who shared their report and passed on the report from the school were very much in the minority; excluding those who at some stage appeared in the sheriff court where disclosure is mandatory, only six families recalled being shown their reports. Moreover, despite the requirement that the substance of any reports before the panel be disclosed to the family, our observations confirmed that rarely does this happen, certainly not in total. Indeed a steady trickle of partial details may merely enhance anxiety.

'You're hearing wee bits and as I say I was beginning to feel guilty but maybe if I had read the whole thing I maybe wouldn't have felt guilty'.

Ball (1981; 1983) has examined in some detail the use of school reports in the English juvenile court confirming a tendency towards secrecy, again a violation of a rule that the substance be disclosed, and presenting disturbing evidence of the influence of this undisclosed assessment. Further evidence of unsubstantiated allegation and pejorative remarks are revealed in the Report of a NACRO working group on School Reports in the Juvenile Court just published (March 1984).

The issue impresses upon the researcher as one on which parents were most forceful in their preference. Over three quarters of the respondents expressed the strong belief that all reports should be available to the families that they concern. In general the opposing voices were ones of disinterest rather than dissent, although the arguments against the proposal included a suggestion that the family would be put on its guard, able to prepare its defence, or that the family would maintain a grudge against the social worker. Obviously in the absence of access to the reports parents can only make assumptions on what they might contain and therefore what might be the likely reactions. Amongst the majority who have no such reservations about disclosure, parents are motivated in their desire to be a party to the account by a number of concerns. One of the strongest is their feeling of bewilderment, of a lack of control in a situation where they are ignorant of what the panel knows of them and can only speculate on its favourability, never mind its accuracy.

'Put it this way, when I walked into that room on Thursday I was blind. I hadn't a clue about the report from school. I never even knew there was a report from the school'.

In an unequal confrontation, the inequality of the exchange is only heightened by differential access. One mother, contrasting two hearings, illustrates the mystique which piles of reports can evoke.

'They have so many different papers and they're sitting and they're scribbling - maybe they're just diddling on the paper you don't know but you always wonder. But if you know what's in that report you can guess if they're writing you can guess what they're writing down. It keeps you in line with the hearing as it goes along whereas if you don't have this report you don't know what's going on and you're saying to yourself now what is he writing, what is she writing, you're sitting there and you're worrying yourself whereas as I found out with H's hearing there was no need to worry. See the last hearing I didn't get anything like that, I didn't get a report to read or anything and I found it difficult to follow what was going on'.

For many parents open access to reports is a requirement of natural justice, a prerogative which should be beyond question.

'Everything they've got in front of them I should be allowed to see because that's my sons ... I'm the parent and guardian, now why should they get told things that I'm not getting told'.

Very often the inalienable right is accompanied by a desire to ensure that there is at least some common understanding of the grounds on which decisions are made.

'I honestly believe that no child should appear before a panel unless his parents are made aware of everything that has been said about that child because there may be many statements made in these, for example the statement made by the social worker was made by an unqualified untrained person ...'

Parents must be able to dispute unsubstantiated opinions, to clarify possible misunderstanding, and to challenge conclusions with which they disagree - 'they could be saying anything about you'. As we have already highlighted, figures from the Glasgow study (Martin, Fox + Murray, 1981) suggest that in cases where social workers offer a recommendation this

is complied with at disposal on 81 or 82% of occasions. It is therefore fairly crucial that the assessment of the worker is sustainable.

'You could maybe not impress a social worker and everything relating to your kid could hinge on this, it could put him away, and she could say they're a scruffy lot and I don't like his attitude just because he or she doesn't like you at the time and you should be able to dispute this ...'

Several parents expressed surprise that the social worker had not returned to check their report once it was compiled, or explained how purely by chance inaccuracies had been exposed. One mother told an indicative story. The social worker who accompanied the family to the hearing was not the one who had written the report and was one of the few who believed that the family should be shown the report. The mother was horrified to read that after a previous marriage of twenty two years her second marriage was 'stable at present but unlikely to remain so'. Given that she herself considered the second relationship the stronger, she regarded such a statement after only an hour's acquaintance as a gross impertinence. The acknowledgement of the subjective nature of all reports only enhances the need for them to be made public - 'let's face it, all these reports are only opinion', 'reports can be accurate, they can be totally inaccurate, they can also be totally biased'. The fallibility of the social worker must also be allowed, a danger that could be controlled through a parental check.

'Everybody's human, what happens if the social worker happens to have fallen out with her boyfriend before she comes for instance, which could easily enough happen, if she's in a bad mood and comes in and the dog bites her for instance, it's not going to put her in a very good mood for reporting on that particular ... So parents should be able to read the report to challenge'.

For another group of parents however the motivation in wishing to read the reports is much more benign. Their desire is to use the reports constructively, to act on any recommendations and to work towards correction. To seize indeed the opportunities revealed by the independent assessment. Such sentiment appeared most frequently in relation to the school report, often a regret that if only they had been informed of the substance action could have been taken. To have missed this potential is a source of disappointment.

'If the school writes a report we should be able to see that as well. It helps because you feel as if you've done something wrong yourself and if they've maybe seen something that you've missed you could put that right whereas if they don't tell you you are ignorant and you just carry on the way you were doing'.

Another parent points a slightly different perspective, the value of the impartial observer.

'If the parent sees what the teacher and the social worker write they would maybe get to know their own child a lot better. We only know him, well, just as our son, but we don't know what like he is at school. We don't know what like he is outside towards other people so it would help us to know him a lot better I think'.

One father expressed at some length his anger on discovering that despite agreeing that his child be seen by an educational psychologist absolutely no discussion ensued. A confidential report was submitted, apparently adverse, and the father was left wondering whether he had made the right decision.

'Even if he'd sort of said I can't tell you what's in the report I could have asked him a couple of questions and he could have answered them, whereas I feel I was agreeing for an educational psychologist to see T and then I was denied any possibility of hearing and what it did was it went against him'.

There was a recurring sense of anger, even shock, in that parents had been assured by a school that all was well, only to have it revealed in a report to the panel that this was apparently not the case.

'That one yesterday that the school sent in, well, I went up to the parents' night and I got told something entirely different ... It was a shock because that's why I'm going to school, I'm not just going up, of course all parents want to know they're being good and all the rest of it, but what's the point in lying, what's the point in having a parents' night if they're not going to tell us ...'

There was also more basic anger when parents considered school reports to be inaccurate. Factual errors were revealed at the hearing but it was then too late for the parent to produce supporting evidence.

'If I knew what was in that report I would have been down there to prove to that teacher that she's wrong on the point of reading'.

Parents are not only angry but confused, bewildered by the variety of personnel who impinge on the hearing system and uncertain from which they can assume loyalty, advocacy or at least impartiality.

Legal representation

The issue of representation at the hearing is an interesting theme, one that has been explored in detail for the juvenile court in a study by Anderson (1978) who attempts to demonstrate how each of the participants negotiates his or her contribution to the interaction. The possibility of representation gains significance as a strategy to offset the unequal distribution of weight between the different participants, an opportunity to strengthen the argument of the weaker partner. The ambiguity and ambivalence in the role of the social worker, often reflected in the uncertainty of parents as to their allegiance, has already been explored.

But there may be similar questions as to the function of legal representation at the hearing, questions which for the juvenile court have been approached by Johnston (1969), who advocates the role of counsellor, by Walker (1971), and by Anderson himself who demonstrates that the role of lawyer in the juvenile court is far from simple, a focus of conflicting demands.

The strategy of the majority of parents would avoid this conflict by the simple expedient of excluding the legal profession from the hearing. Less than one fifth of parents see any need to encourage the presence of a lawyer at the hearing, with a handful of others acknowledging a need in specific circumstances, for example a particularly serious offence or when there is a need to establish innocence. Or parents may accept that whilst they see no need for legal representation this should not be denied to others who may have a different perspective. Only a couple of parents in the study had in fact sought legal advice. Given the suggestion of Duffee + Siegel (1971) that discounting the nature of the offence there is a positive relationship between representation by counsel and severity of disposal this might be considered wise!

The argument depends to a considerable extent on the perceptions which parents have of the function of a lawyer. Several for example saw the role of lawyer as adversary, a plea 'to get the child off', and felt that this was inappropriate in a setting where they were either seeking help or wanting the child to receive a fright. To promote an adversarial

system was to misunderstand the status of the hearing, to detract from the basic requirement that the wrongdoing be investigated.

'I don't think a lawyer would go into such details, he would push more to get them off than he would to sort of how should I say look at their background, just what's happened and all this, he wouldn't do that, he'd just be there for one reason only is to prove his innocence sort of thing, when they're sitting there guilty'.

It was indeed to recreate a court - 'I think if you started taking a lawyer I think you'd make it too much of a, take the idea away from the children's panel just to a juvenile court'. The fear is expressed that there would be a danger of the hearing becoming a legal ritual, a confrontation rather than co-operation.

'If you started taking a lawyer I think you'd ... take the idea away from the children's panel just to a juvenile court ... when you take a kid up to a children's panel he knows he's done wrong and all that but you know they're taking his age into consideration ... If you started totting lawyers about I think the other side would sort of harden their attitudes to counteract that'.

The very language of the lawyer may also tend to militate against the atmosphere of informality at the hearing: there is an affinity between the legal profession and ritual - 'sit themselves on a wee pedestal' - which is inappropriate to the majority of parents.

'When you get a lawyer he's talking long words, maybe you've not got the mentality to grasp what he's talking about or what he's saying, puts you off, you're sitting there and you're dumbfounded'.

An alternative view is that the lawyer should be advocate, positive argument in favour of the parent and child. But parents who consider such a role opt for the social worker to fill it - 'he's as good as any lawyer if you want any advice or anything'. Perhaps because the figure of lawyer is generally unfamiliar, encountered if at all usually because

of family breakdown, her role is seen as distant, not one which would be immediately harnessed as counsellor or adviser. For those parents who consider that the decision of the hearing is predetermined there seems little point in engaging expensive legal argument.

The one area in which parents do grant a role to the lawyer is to facilitate communication. She has the experience and skill, the appropriate language, and could therefore argue more effectively than the unpractised parent.

'A lawyer can put over things better than you can, I mean if you're not I won't say not intellec, intelligent enough but he has the right words for the right face at the right time for the right place you see, now if he got a question thrown at him he could just say right, quick and put it back the right way, whereas me, my nerves got the better of me, and I'm trying to get it out and I know what I want to say but they make me nervous whereas a lawyer is cool, they're very cool people'.

This is the main argument of those who would welcome legal provision, but again it is a minority view. Rather more, again wary of the effect of allowing legal intervention, would argue that the hearing is relatively free of legalistic terminology and jargon and that this clarity should be preserved.

'If they were talking a lot in legal terms that you didn't understand them, I would say yes then but they don't ... if they were lawyers and talking in terms kind of they've got all those different words you wouldn't know the meaning of I would take a lawyer then so I'd know what they were talking about but no I wouldn't bother with a lawyer'.

Similarly, the majority of parents acknowledge that the legal implications of the hearing are adequately outlined and though these may be a source of much concern to other commentators (e.g. Grant, 1974; 1976) the parents themselves, if only through ignorance, remain, for the most

part, unperturbed.

'There isn't really any points of law that come up that don't get explained to you. It's explained to you if you don't agree you just say so and it goes back to the sheriff and he decides. And the warrant, they have to apply for a warrant to take him to the assessment centre and you can object to that and it still goes back to the sheriff. They tell you your rights so I don't see the need for a lawyer'.

Only a handful of parents suggest that perhaps the expertise of a lawyer could have ascertained that the child was not in fact fully involved in an offence, and was not totally culpable.

In general, whatever the immediate reason, there appears a resistance to inviting the involvement of a legal figure, one whose image is not clearly defined to parents and whose presence would seem to indicate escalation beyond the parental forum. There is however just a hint that a somewhat different influence may be attributed to a legal power. A number of parents believe that if there is evidence that parents are to engage a lawyer a referral will be discounted. They account for a number of observed discrepancies with this reasoning - 'he wasn't taken up in front of the panel because he had a lawyer' - a strategy that could have interesting potential.

'We went to tell them we'd seen a lawyer and the next day it was all cancelled, we got a letter from the police telling us it was dropped'.

The incidents may have been coincidence, but it is their interpretation by the individual which gives validity and which may provide a basis for action.

Discussion by Morris (1983) suggests that by opting out of the legal representation debate the parent may avoid a considerable number of

dilemmas which are implicit in that debate. Who for example is the lawyer representing, the child or his parents, and does she act as advocate for that individual or as an officer of the court. Most importantly what should be her stance on the various dichotomies.

'Should he protect the child's legal rights or try to promote his welfare? Should he try to get the child off or get appropriate treatment for him? Should he sacrifice the child's legal rights if the child's general welfare seems to require it? Should he look to the child's legal rights and his welfare?'
(Morris, 1983:125)

Not surprisingly, Morris' summary of existing studies of the legal representative reveals that the role is clearly confusing and inconsistent, both to those attempting to operate it and to those who have to be responsive to it. Moreover as both Campbell (1975) and Watson (1976b) have discussed, the status of children's rights is itself an area for considerable debate.

Summary

Discussion of four specific areas in which parents express preferences has demonstrated the continued reliance on various ideological elements. They illustrate also the range and depth of issues to which parents give thought. In the following and concluding chapter we will attempt to draw together these various areas of interest and to identify what are indeed the dominant ideologies of these parents.

CHAPTER TEN : Parental Ideology

Preceding chapters have concentrated on parental responses to the more routine dimensions of the hearing and its immediate context.

Throughout the discussion, however, arguments of more general application have surfaced. It is now time to acknowledge these arguments and to concentrate the discussion on the much broader concern of the ideologies which parents display towards those who have offended. We should not forget that we are speaking in this research only of parents whose children were referred to a hearing on offence grounds, and can generalise therefore only about this category of parents. Such parents in particular however are likely to speculate on the origins of the behaviour which has brought their child before a panel. We will look first therefore at the various causal explanations which are invoked by parents as they build up their ideology. We will then add to this causal element the other ideological elements which have appeared as threads woven throughout the discussion and will attempt an identification and grouping of the ideologies to which parents subscribe.

Parental theories of delinquency

Parents' attempts at making sense of their children's behaviour include searching for explanations as to why their child should have got into trouble. Parents are no different from others in the breadth of causal factors which they embrace, casting in all directions in an attempt to locate the elusive variable. As subsequent analysis will demonstrate, many fall back on a multi-causal model, invoking different culprits as

the argument proceeds. Explanations almost invariably imply remedies; only rarely was a sentiment expressed to the effect that 'if it's deep-rooted and it's there it doesn't matter what you do, no you'll never change the kid'.

The explanations proffered by parents can be grouped into perhaps eight main categories, although they tend to be offered at different levels of generality. A first explanation for example is very often that the child has been led astray by his peers, there was no trouble until a certain individual or group was involved - 'just when he gets into that company, that's him'. One mother, seeking to move house in order to escape the cause of her son's delinquency, asserts this explanation against the perceived scepticism of the panel.

'When he said it was other boys, well not blaming other boys but the company he was keeping, that man sort of laughed, he gave me the impression that he just laughed at it, but that's got a lot to do with it and even my social worker agreed with that, because W, we lived for four or five years down the bottom end of A... and you know the reputation that's got and he was never in a bit of trouble, never, and then we came out here and he got involved with some of the boys and got into trouble ... We feel if we can get a house out of here it'll help W, it'll help to keep him away from the company he is keeping'.

The argument can embrace varying degrees of coercion. On the one hand the parent may acknowledge that the child, in theory at least, is a free agent.

'The only time he's been in trouble he's been with R and I'm not blaming R because he's old enough to know what he wants but if he didn't have R there to go and get into trouble with he might not get into trouble sort of thing'.

But others see evidence of more overt influence, even bullying.

'He's easily led, he's been forced into a position by these older boys or bigger boys. I think there was a form of terrorisation there that upset him. He didn't want to be belittled by these people so therefore he went along'.

More succinctly,

'The big boys will say to them you're chicken and they've just got to do it'.

Whether by choice or through pressure, the child has become part of a delinquent sub-culture, responsive to a different set of values.

'Down in that school, most of them have been in trouble and this is the in thing down at school, you know how many times you have been up in front of the panel, this is what it's all about'.

'I've no control over him, he seems to listen to his mates, if his mate put his hand in a fire he would go and do it too ...'

The child may be unsure of his identity and anxious to impress those who appear to be the leaders.

- M. He does it to impress folk. He wants to be one of them.
- F. He's not very good at handling himself ... because he's not very good at fighting like some of them here this is his way of getting in with them.

Some parents recognise however that to cite other children can only be a partial explanation. Some account has to be given of why those other children should offend.

A perhaps more fundamental explanation identifies boredom in the children and cites the lack of stimulus in their environment. If those in authority were to concern themselves with providing suitable facilities or stimulating absorbing activities rather than pursuing the individual the long term result would be of greater benefit.

'The problem with the youngsters is this, it's complete boredom with a capital B'.

In perhaps a logical extension of the boredom type explanation many parents consider their child's delinquency to be a temporary phase. At some stage of the growing up process the child demonstrates anti-social behaviour which given time will disappear.

'He's the kind of boy adolescence is bad for him. He should have went from a bairn to an adult all at the one time, if you know what I mean. That's the problem with most of my boys. That's the worst age from maybe thirteen till they're sixteen years old then they just grow out of it'.

'They live in a fantasy world I think from the age of twelve till sixteen. I think they go through a phase ... and they just, they cannot do enough to vandalise and oh they're heroes and things like this, if I do this I'm a hero and such like. I think when they come a certain age something just snaps again and they say oh I'm just fed up with this, I'm not doing any more bad things, I'm going to work and make money'.

Many parents with these expectations feel that the phase has to be coped with and lived through rather than attempt more radical intervention.

'I think it just comes with age. I don't think - it doesn't matter what happens to you if you are prone to getting into trouble you'll get into trouble until you get to a certain age of your life and you say oh hold it ... you've just got to get them through this'.

Some parents suggest that the raising of the school leaving age has not eased the tendency for a drift into delinquency.

'They go through phases but I think it's the school too to blame and the country because they should make more work available for youngsters and let them leave school when they are fifteen. I was fourteen when I went to work. They're more grown up they have more knowledge than what I had when I was their age... She didn't like the idea of another year at school, that was part of the problem'.

'If he could leave tomorrow and get a job he'd have no bother ... he'll be that tired at night he'll be glad just to go to his bed and he'll have money in his pocket, he'll not need to steal it'.

School also figures as a causal variable in the opportunitistic delinquency which accompanies truanting. If children are plugging school, the argument goes, there is an increased likelihood of offending during the many hours they have to occupy themselves.

'You take it, if they're running about all the time what are they doing, they've nothing to do all day, they're not caring about their lessons, they go up the woods, they're bound to be doing destruction somewhere some of them'.

'But it seems that the root of all the trouble, any time he's off the school, that's when he's done anything ... if he had been at the school that would never have happened'.

A number of parents speak of a more pervasive influence on children, a general malaise of society which tends to leave children as victims of some more sinister manipulation. For example the declaration of one mother,

'it's not the bairns' fault, half the cases, it's modern society, they're brainwashed, they're brainwashed with TV and fashion and pop music ...'

and in similar vein,

'You sit down and watch ITV every night, they spend millions of pounds convincing you that the things they are advertising you can't possibly do without. If you don't have the money what are you going to do? They've convinced you that you can't do without it ...'

In brief,

'I think that the affluent society that we have has bred the type of youngster that's getting into problems'.

The type of explanation traditionally furthest from such societal factors is that which relies on individual or family pathology. As will emerge, and contrary to Kilbrandon, only a minority of parents endorse statements of the order 'bad parents bring up bad children - that's it in

a nutshell'. Rather more however complain that this is certainly the message that comes across from the panel members - 'they blame the parents too much'.

'I always felt underneath, and this comes back to us not knowing what they say in these reports, you are rather made to feel we are to blame'.

Nevertheless there are those who consider the problem lies in bad parenting, that through neglect, over indulgence or other immorality the parent fails to equip the child with as equal an opportunity.

'If you start looking into the pros and cons of a youngster, why he does these things, nine times out of ten, it all goes back to the parents'.

It is not always the proverbial other who is guilty: two mothers reflect on their own failings

'Everybody, no matter who I saw, all say I've got him spoiled and I'm too soft with him and he's like a big baby when I'm there, I'm to blame for it all so honestly I don't know ...'

'It's embarrassing ... you don't think your kids are going to steal, you try to give them, you feel that you've let them down in some sort of way, well I did anyway, I thought it was my fault'.

Parental influence assumes a different form when marital dispute or family disturbance is proffered as the explanation of delinquency. Parents describe the inadequacies they perceive in the upbringing they have provided.

'It is a parent's fault that a child does what it does because I realise myself there is something wrong with M's upbringing. Probably the fact that my husband and I have split up ... M really needs a father. If my husband had been any way decent at all I don't think the boys would have got into trouble'.

Another mother explained how the time she had to spend nursing her invalid husband limited the attention she could give to her daughter.

'To me I thought what the problem with me her dad was needing that much of my attention I'd not that much time for the bairn, I couldn't put that much attention on them and it could have all built up to this and this was the result. So I actually blame myself ...'

A number of parents condemned however what they see as the panel's search for psychoanalytic type explanations. They reject the relevance of for example enquiry into the mechanics of delivery at birth and are suspicious of explanations that are constantly revised as events prove them mistaken. It may be the father's absence from home working that is suggested as the cause of his children's offending - until he returns home full time and then that in turn becomes the causal factor that is put forward by panel members.

Some discussion was pursued with parents as to the extent to which they thought patterns of offending had changed over the years. 'Do you think', they were asked, 'that children nowadays get into more or less trouble than when you were their age?' In their response to this issue parents voiced vigorous criticism of the changed nature of the police force and cited the variable as a major influence on the pattern of offending. According to the parental image, in the past the local policeman knew the families of the area and meted out ready justice through judicious use of a backhander. He would likely have a word with your father and ensure that you progressed no further beyond the ubiquitous 'knocking apples'.

'I can speak as a boy at those times like, all boys get into trouble and the polis dealt with you sometimes there and then, a cuff on the ear and sent you packing home, you weren't going to tell a soul that the police had skelped your ear for you and told you to go on your way'.

Nowadays, the account runs, children know only too well their rights should a policeman touch them and there is no longer the local figurehead 'bobby', a friend and a deterrent.

The image of authority is also invoked by those parents, referring back to Chapter Eight, who would argue that it is not an explanation for their child's behaviour which should be sought but rather an understanding of the changed definitions imposed by revised criteria for intervention. Thus what were formerly childish pranks become redefined as an indication of the need for official intervention. Parents express sentiments to the effect that 'I think every bairn has done much the same thing through the generations' and 'I don't think they get into any more trouble, they just get caught, they seem to get caught now ...'

A somewhat different perspective on the search for explanation, but one which also emphasises the classificatory discretion of authority is alluded to by another parent.

'But you see this is one of the reasons that many of the children appear before the panel is because their behaviour may be considered by either teacher or whoever as antisocial and yet within the family structure that is the norm ...'

Delinquency is recognised as a subjective creation rather than an objectively defined state for which there is an absolute explanation. It is a condition which can be imposed on individuals by the labelling activities of others.

'We are what we are because other people tell us so, we're only mirrors of what society tells us we are. It's the same with all the Manchester United fans, a classic example, are told by the media that they're a load of animals and things, so when they go away they react to that. And this is what's happening here specifically in L because L's got a bad name and the kids are living up to the bad name they've been given'.

Parents generally proffer their explanations of delinquency in a fairly impromptu yet assertive manner. There is the assumption of a taken-for-granted orthodoxy, a confidence that others share also in their explanation. As the parent expounds her theories she is of course both drawing from and contributing to a pool of stereotypes. At the same time she is often juggling the specific and the general, the reality of her own child being in trouble against her traditional characterisations of why children should offend. Indeed the implications of such a confrontation may only dawn on the parent in the course of her explanation. One mother for example contrasted what she considered to be the mitigating circumstances of her husband's childhood offending with the absence of any such disadvantage in their child's life.

'You see there was an excuse for him doing that because he never had a very good upbringing, he was always hungry and everything but in S's case he never had anything like that, he's always well looked after. It makes you wonder what went wrong ...'

To the academic observer a range of more formal theories lurk behind the explanations that parents invoke. For example in the suggestion of an adolescent period naturally prone to delinquency there are threads both of the non-interventionist argument of Schur (1973) and of the delinquency and drift thesis of Matza (1964). Likewise, in the suggestion of delinquency being an ascribed status, there are links to the labelling arguments of the interactionist perspective (see, for example, ed Rubington + Weinberg, 1978). Further, in offering explanation, there may be a direct call upon certain of the ideological elements. One mother for example invoked directly the notion of responsibility

'As I told the panel I'm not blaming anybody or anything for what's happening to J because he knows right from wrong and it's only himself that can help himself'.

Another argues that the move to the panels represents a decline in the element of deterrence and therefore the panels themselves can be invoked as a major causal factor - 'I think what most of this trouble is all started since they started panels'.

As before, however, we do not wish to constrain the parental interpretation by forcing it to accord with traditionally recognised patterns. Our analysis of the parental perspective on causation took the form of a recognition in each family of the presence or absence of each of nine factors that are offered by way of causal explanation. Thus 40 of the 100 families made statements which placed some at least of the explanation with the child's peers, 28 of the families made statements which implicated the child's environment. Reasons connected with the child's school or with more general aspects of education were cited by 25 families and comments relating to the police, particularly as discussed above a perceived change in role, were made by 27 families. The suggestion that delinquency was a developmental phase was made by 14 families while 7 made comments which implicated the broader concept of society as an explanatory variable. Six families referred to the influence of parental dispute or separation within the family and eight emphasised the role of the individual child, his particular nature, in contributing towards his delinquent behaviour.

Overall 33 families mentioned causal factors which referred in some way to aspects of parenting. It is necessary however to look at

this category in somewhat greater detail, a variety of influences being posited. At some point in the discussion for example 18 of the families put some of the blame for children's delinquency on parents who did not care, did not pay sufficient attention to their children's needs. A further six specifically cited the detrimental effect of working mothers. Often these statements were made in abstract form and did not implicate themselves in such behaviour. Seven families on the other hand thought that the fault lay in excessive leniency on the part of parents, an over-generosity perhaps, and a number of parents admitted they may have been guilty in this respect. A further three recognised that others had suggested that it was their own fault that their children had offended, while a couple of families specifically cited illness in the home as a factor which had led to neglect of the child's needs. (Note that this breakdown totals more than 33 due, as in the overall classification, to multiple responses.)

In looking at the various combinations of causal factors proffered by parents it was decided to exclude the comments relating to the police on the grounds that these had most frequently been offered as a secondary explanation, a reason advanced in particular during discussion of a widespread belief (pace Pearson, 1983) that contemporary children get into more trouble than earlier generations. The following comments relate therefore to the other eight factors whose distribution was systematically examined.

Forty eight of the families proposed a one-dimensional explanation of delinquency, 14 expressing a belief in the primary causation of

environmental factors, 12 citing various of the aspects of bad parenting developed above, 9 referring to the primacy of the influence of peers, and 7 laying the major blame on aspects of the school. Two families opted for societal influences, two for the influence of developmental phase and two expressed a belief that parental dispute lay at the root of delinquency. There were ten families who offered no ideas on causation. Of the remaining 42 families 20 cited a combination of two of the factors. Of these 20, five linked the child's peers and school, three peers and parents and three environment and parents. The other nine families had unique combinations of factors. A further 12 families cited three of the causal factors, five combined four of the factors, and one mentioned at various stages of the interview no less than six of the factors. It is obvious therefore that parents exhibit a wide diversity in their attempts at explanation. Although almost half opt for a single explanatory factor, the largest single group for environmental factors, amongst the rest there is a wide and eclectic selection, with little sign of any pattern in the choice of factors which are selected.

The wide variety of causal explanations which parents offer contrasts markedly with the emphasis laid on the single factor of family pathology by Kilbrandon. There is therefore a considerable and significant discrepancy between the theory presented in the legislation and that adhered to by parents. If panel members therefore work with and reflect the official causal ideology an area open to major dispute is created. Indeed a number of parents commented to this effect - 'they blame the parents too much',

'I always felt underneath, and this comes back to us not knowing what they say in these reports, you are rather made to feel we are to blame'.

'I always think the panel or the social work department are looking to see if we sort of encourage what they are doing or if they are taking an example off us, and I'm running around nicking stuff all over town and if they are following in their father's footsteps. I'm the first person they turn to, they turn to the parents to see if there is something wrong with the parents, but to me it's not the parents who do the stealing, it's them'.

Panel members may be frustrated at the lack of enthusiasm shown for their logic by parents; parents may express annoyance at the airing of what they perceive as totally misplaced explanation. As various commentators have noted however (in particular Smith + May, 1980; Asquith, 1983), the dilemma is further confused by the lack of a unitary presentation by panel members. Like parents, they too may be attracted to a variety of possible explanations and individually and collectively may put across a confusing array of causative factors. The theoretical conflict therefore may be diffused if individual panel members do not pursue wholeheartedly the legislative explanation.

Parental ideology

The differing explanations which parents proffer for delinquency would logically suggest a variety of ensuing actions on the part of parents. If for example they subscribe to a theory which emphasises the influence of the child's peers they might take action to separate the child from their company; if on the other hand they regard the activities as a passing phase they could argue for a relatively low-key intervention. Moreover the variety of explanations which are offered could indicate

that parents would be looking for a considerable variety of intervention on the part of outside agents. It is appropriate at this stage therefore to move to the major concern of this chapter, the combination of the ideological elements to which parents subscribe. Our use of the somewhat problematic term ideology was discussed at Chapter Four; our intention is to identify the extent to which parents exhibit a coherent set of responses as they confront a child who has offended.

Whilst acknowledging the unique nature of each individual, there was a desire to reduce the one hundred families to a more limited number of ideological groupings, identifying the extent to which parents exhibited similar or disparate patterns of belief. In this search for some degree of order several of the elements which were defined at Chapter Four and which have been pointed throughout the analysis were employed. These can be listed as the seven elements of retribution, tariff, deterrence, reform, therapy, reason and needs. It is obvious that not all the elements in the listing are necessarily definitionally exclusive; the needs of the individual could for example no doubt be encompassed in certain situations under the term therapy. Again the categories stand as they do because this is how parents tend to talk about their interests. The presence or absence of each element was recorded for each case and then the resulting table was analysed for emergent patterns. It is important to note that presence or absence was the sole basis for classification and that there was no attempt to weight the relative importance which was attributed to the individual items. To have done so would have required a somewhat sophisticated

measuring strategy which would have been incompatible with the directives of qualitative research. Moreover it was the entire text which was examined for each element rather than the response to any specific question(s).

The total occurrence of each of the seven elements which were selected for the identification of ideology can be outlined. The elements of therapy and of deterrence get almost an equal number of references, 49 families speaking at some stage in favour of the former and 47 for the latter. That the reasons for a child's offending should be sought was proposed by 39 of the families and that the individual needs of the child be taken into account by 28 families. A retributive element contributed to the argument of 33 of the families, specified as a tariff principle by 6 families, and 8 families spoke to the benefits of promoting reform through punishment. The absolute occurrence of various other elements which were not in fact used towards the identification of ideologies can also be noted at this stage. Thus an element of responsibility was cited by 7 families, the concept of diversion was proposed by 13 families and the idea that intervention was perhaps unnecessary was brought up by ten of the families.

By far the most significant feature however to emerge from even the most cursory examination of the patterning of elements is that the large majority of parents present not a single ideological element but work with some combination of two or three elements. In absolute terms, 30 of the families subscribe to a single ideological strand, 38 offer a twofold explanation, 24 combine three of the ideological elements and 8 draw upon no less than four of the available alternatives as they

seek a satisfactory argument. This evidence suggests an immediate conflict with the preliminary research on hearings and courts outlined at Chapter One where the predominant adherence to a punitive framework and to principles of justice was highlighted. There was little suggestion at that stage that the debate was problematic to parents, with no indication that they might have to attempt a reconciliation of conflicting images. And yet, on the evidence of our research, this is exactly what parents are doing, drawing with apparently little discrimination on a range of potentially conflicting elements. Not only therefore do we suggest that research outlining a commitment to a traditional justice model is mistaken; the force of our argument is that there is no readily discernible alternative.

It may be however that any search for a unitary dimension is mistaken. Rather than be dismayed at the apparent proliferation of ideas, constantly seeking a reduction to some overriding principle, a preferable alternative may be to accept the disparate nature of parental response and to acknowledge that the 'noise' in the data, rather than being troublesome, is in fact significant. A concept of 'multiple ideologies' has not received wide attention in the general literature, but has been debated in the present context of the hearings by Smith (1977b), when he found that for social workers also there were limits to the extent to which individuals could be assigned to a single ideological stance, the extent to which 'the responses of each individual could be seen as a relatively highly integrated belief system' (p.849).

In supporting the validity of apparent inconsistency and ambiguity and its translation into the notion of 'multiple ideologies', Smith cites in particular the arguments presented by Converse and by Geertz, both to be found in Apter (1964). From his interest in the belief systems of 'mass publics', Converse observes that as one generalises down an information dimension the existence of a limited number of all-embracing belief systems tends to break up, giving way to a diversity of various discrete clusters of ideas. Logical constraints are minimal, and there are few demands that there should be consistency across the range of these ideas. The opportunity exists therefore for individuals to work with differing belief systems dependent on the context. Smith's second explanation relies upon Geertz's exploration of ideology as a pragmatic mechanism resolving the inconsistency inherent in the social world.

'No social arrangement is or can be completely successful in coping with the functional problems it inevitably faces' (Geertz, 1964:54).

This 'strain theory' allows that competing ideologies are likely to produce conflict (strain), individuals identifying within a system nonconforming elements which are at variance with their dominant belief structure. Smith illustrates how, dependent on the particular professional ideology to which they adhere, different aspects of the hearing system present as problematic to the social worker. For Smith's social work ideologist, for example, the role of the Reporter is almost impossible to explain, while to his law enforcement ideologist the presence of lay panel members is a source of difficulty. Attempts by parents to resolve such strain through the use of explanatory

accounts (Scott + Lyman, 1968) have already been presented in our own explanation.

The validity of 'multiple ideologies' can be supplemented by the arguments presented in a paper by Marx (1969), in which he puts forward the case for a multidimensional conception of ideologies, a framework

'for conceptualizing and assessing the diverse, competing ideologies in highly differentiated arenas marked by numerous cross-cutting affiliations and frames of reference' (p.82).

Although speaking specifically to the professional arena of mental health Marx points a number of important analytical considerations. There is for example the problem of who identifies the dimensions which are to be included in the ideological analysis and on what basis the saliency of any dimension is to be judged. To what extent can in fact preliminary research and theoretical investigation overcome the directive that

'only the ideology-bearers themselves can specify the substantive referents which define the significant dimensions of their particular ideological concerns' (p.82).

After this brief excursion into the more general framework we can now return to the analysis of our own ideological elements and, strengthened by the arguments for the validity of multiple ideologies, explore in more detail the apparently conflicting allegiances which parents exhibit. Of the 30 families who consistently adopt one ideological stance throughout their discussion, 13 of these families adhere to the element of therapy, 3 to the directive of finding out why the child has committed offences and 1 gives primacy to determining the

needs of the child. All these families would probably be assessed as reflecting sentiments which are in accord with official pronouncements on panel doctrine. Six families on the other hand spoke only of deterrence, five of retribution and two of the necessity of reform through the medium of punishment. Such parents could be said to conform more closely to the traditional mould suggested by earlier research.

Amongst those parents who invoke more than one ideological element there are both those who group what may be viewed as neighbouring and related elements and those who combine totally disparate elements. Thus to the families above who variously identify therapy, causation or needs as the major response, there can be added parents who combine these three basic elements in various combinations, nine families speaking of all three elements, four combining therapy and needs, two therapy and causation and two causation and needs. The juxtaposition of such elements provokes little discord and parents as well as theorists are able to argue the logical connection between them. This may also be the case for nine parents who speak of both retribution and deterrence, punishment being justified both in itself but also for the consequences that it is hoped will ensue. The other main combinations which parents use exhibit more of the symptoms of 'strain' outlined above. Parents speak either concurrently or consecutively of elements which logically would indicate somewhat disparate ideologies. Six parents for example endorse the elements both of deterrence and of therapy and six of deterrence and causation.

It would be paradoxical if, having made a point of separating out the individual ideological elements, we were then to mask the differences by regrouping. The complete distribution of families amongst the different ideological elements is shown in Table 10.1 and this indicates the large number of families who exhibit a grouping of elements unique to themselves or shared with only one other family. This is a major finding and should not be disguised. Parents do not in the main adhere to a single, uniquely defined doctrine; rather they draw pragmatically upon a range of possibly incoherent ideological elements. One or two observations can however be made. If we refer back to the presentation of Chapter One, we can relate our seven elements to the traditional concern to separate judicial and welfare considerations. Retribution, deterrence and a concern for tariff principles would all tend toward the judicial; therapy, the needs of the child and causation appropriate more to a welfare based philosophy, and reform straddles uneasily between the two. If we accept these rough approximations, 34 of the families selected uniquely welfare type elements and 27 operated solely within the domain of retribution, deterrence and tariff. No less than 39% of the families therefore are drawing from both sides of the traditional divide in their exposition of the most appropriate model for children who have offended. As the table indicates, many of the families rely on an element of deterrence or retribution but the range of additional elements with which these are combined is wide.

TABLE 10.1 The combination of ideological elements

<u>Grouping of elements</u>	<u>No. of families</u>
Therapy	13
Therapy and Why and Needs	9
Therapy and Needs	4
Therapy and Why	2
Needs	1
Why	3
Why and Needs	2
Ret and Det	9
Det	6
Ret	5
Det and Therapy	6
Det and Why	6
Ret and Det and Tariff	2
Ret and Det and Why	2
Ret and Det and Therapy and Why	2
Det and Therapy and Why	2
Det and Therapy and Why and Needs	2
Det and Therapy and Needs	2
Det and Needs	2
Det and Tariff	1
Ret and Tariff	1
Ret and Reform	1
Ret and Reform and Needs	1
Ret and Therapy	1
Ret and Det and Needs	1
Ret and Det and Why and Needs	1
Ret and Why and Needs	1
Ret and Det and Therapy	1
Ret and Det and Reform and Why	1
Ret and Det and Reform and Therapy	1
Ret and Therapy and Needs	1
Ret and Therapy and Why and Needs	1
Ret and Therapy and Why	1
Tariff and Therapy and Why	1
Tariff and Why	1
Reform and Why	2
Reform	2

Ret = Retribution

Det = Deterrence

It would seem therefore that there is perhaps a fundamental difference between the patterns of arguments presented by parents and the concept of 'multiple ideologies' as defined above. Although it is to some extent a distinction dependent upon problematic aspects of definition, nonetheless it would seem more realistic to suggest that the evidence appears to indicate that rather than operating with a number of separately worked out ideologies, each internally consistent and each invoked in clearly differentiated circumstances, the parent may in fact operate without ideology at all. For many parents the pattern is one of drawing as necessary upon a pool of ideological elements; there is little concern to sustain the set of consistent ideas which could be identified as ideology. Unlike, for example, the professional social worker who will be repeatedly forced through for instance the production of reports or the justification of decisions to confront and to clarify her ideological stance, the parent is generally insulated from demands for ideological consistency. In daily discourse there is no demand that we present a coherent argument, that we limit our responses to those dictated by a specific ideological position.

To illustrate, if parents were working with specific ideologies, albeit in multiple combination, there would, for example, be some sign of consistency between the parental explanations of delinquency we explored at the beginning of this chapter and the measures parents invoke by way of remedy. But in the same way that parents can invoke in parallel quite differing explanatory factors there appears little order or pattern in the associations parents make between explanation and solution. There is again a dependence upon a multiplicity of

available options, with few parents confining themselves to the regular adoption of one specific alternative. As we shall argue in the next section, parents are unfettered by demands that they should present as ideologically consistent, and whether by default or through skilful exposition are able to juggle seemingly contradictory assertions.

We have arrived therefore at a somewhat different position from that which we originally sought. Our intention was to identify in the tradition of Smith (1977b) and of Asquith (1983) the dominant ideologies to which parents who have attended a children's hearing subscribe. Towards the attainment of this end, we distinguished particular elements which appeared contributory to ideological positions and identified their occurrence in the data presented by the hundred families under review. But in place of our expectation of a few clearly defined strategies, the impression created from the study of our data was that parents operate with a glorious multiplicity of ideas, that these ideas cannot be confined and labelled as specific ideological positions, certainly cannot, for example, be characterised, as in the past, as predominantly punitive. We have to conclude that parents appear to operate outwith ideology, mix resources of explanation and of action in hitherto undefined ways, and, rather than conforming to traditional expectations, pursue independently a more realistic conflation of the available alternatives.

The outcome

What, however, should be made of all this? It could be argued that parents are merely illogical, further evidence that, in the tradition of paying only lip service to consumer research, the opinions that they offer should be discounted. Failure to conform to some neat classification is not however, we would argue, a sufficient reason for dismissing what is, we would maintain, a highly significant outcome which merits exploration on a number of levels.

Firstly, and of particular relevance to the earlier research bordering on this area, is the influence of the research philosophy and methodology upon the results which are produced. This is not to say that the results are necessarily an artefact of the research technique, but to point the superiority of a methodology which allows for maximum exploration of the respondent's perspective, and which allows apparent inconsistencies and multiplicities to emerge rather than be masked beneath predetermined categorisation. In other words, it may be that the highly structured nature of previous research has not allowed the diversity and multilayered nature of opinion within this area to be revealed. Respondents have been forced, through the structure of a questionnaire or by the limits of a rigidly controlled interview, into a classification which may be both partial and misleading.

We can reflect at this stage on the nature of the human response. We highlighted at Chapter Five that for many parents the hearings themselves had been an area of only marginal concern until they themselves received a summons to attend. It is likely therefore that these parents, in common with the rest of society who have no specific

involvement in the issue, will have had some vague and generalised response to the question of what should be done with children who commit an offence. On particular issues, perhaps vandalism or assault, they may have developed a more specific response, but on the whole their arguments remain undeveloped, articulated only as a routine phrase. As long as the issues remain marginal, one's initial response is not subject to any rigorous test of consistency or validity. Moreover the responses may vary from day to day or from week to week, a victim of fluctuations in individual mood, in collective concern, or in public outcry. It need hardly be emphasised that human thought and behaviour does not reflect some perfect notion of rationality.

Two events disturb this relative equilibrium. Firstly the parent hears that her own child has become involved in the area of illicit activity previously confined to some generalised other. Identifying her own child with the condemnation she has previously extended to others may prove uncomfortable, and mitigating factors may come into play, attempting a modification of the traditional response in this particular instance. Alternatively, confrontation with the problem in her own family may lead to more radical reappraisal. Explanatory factors which have operated in the past, for example broken homes or neglectful parents, may not apply in her own case, and the individual may be left uneasily searching for a new explanation which can sustain some satisfactory level of equilibrium, an equilibrium which may be further challenged by the discussion and comment which ensues at the hearing.

Against such a backcloth there arrives an interviewer who is anxious to explore with the parent her beliefs and responses in this area. It

may well be the first time that the parent has attempted to articulate these ideas, and it may well be that as she explores and develops them the inherent contradictions and inconsistencies begin to manifest themselves. As this reality emerges the parent may respond in a variety of ways. She may recognise that her account is characterised by contradiction and inconsistency and may attempt to voice some form of explanation, perhaps a justification of why her particular situation differs from the norm. Alternatively, although the disjuncture between the separate parts of the account may be apparent to the outsider they may remain hidden to the subject. Whether consciously or unconsciously, she may ensure that the individual arguments remain sufficiently separate from each other that their contradictions do not have to be confronted and can therefore pass, as we have explored above, into the rich multiplicity of ideas that parents present. It should be borne in mind that if more than one interview had been held with each family this phenomenon may well have been increased as the interviewer picked up the fluctuations in response over time. There may, on the other hand, have been an increased likelihood that the juxtaposition of apparently inconsistent ideas would be exposed and elaborated. It is the merit of the phenomenological approach that it does indeed expose such realities.

Parents do not therefore necessarily examine their arguments for internal consistency, and are either content to breach apparent logic or to argue the specific circumstances of each variation. Parental responses do not necessarily fit into convenient research categories but vary and multiply, reflecting the ambiguity, even at times incoherence, which is, we would argue, a necessary concomitant of all human behaviour.

We would suggest, as our second major outcome, that this discovery is an important achievement of the directive which we made a commitment to follow at Chapter Three, namely that of concept clarification and of concept generation. The accomplishment has not been so much at the level of concept generation. As we have argued earlier, although the discriminating elements are all empirically derived they are nonetheless very much within the tradition of established juvenile justice philosophy. It would be surprising if they were otherwise. They have in a sense been identified as part of a dialectical process which moves the analysis back and forth between data and theory. Certainly, however, at the level of concept clarification the study has gone a long way to teasing out and elaborating exactly what it is that the various tenets of juvenile justice mean to parents themselves. Thus, we would suggest, in place of the vague and generalised concept that has been referred to in the past, the framework has been broken down into its constituent elements and the meaning of each of these for parents identified and illustrated. It should be difficult in the future for anyone to refer in terms of such unclarified generality as for example 'punishment'.

The clarification of such concepts may seem a somewhat theoretical exercise, but the exposition of parental ideologies (or rather their lack) should not only be of theoretical interest. It is customary to make concluding remarks about the implications of research for policy and for implementation, and a certain scepticism has crept into the practice (Stevenson, 1983). Nonetheless, it would seem essential that the other participants in the hearing process, despite their higher

position on the credibility hierarchy, take note of the extent to which parental ideologies may differ from their own. Ideally a hearing is an interaction process and it ill-behoves any participant if she chooses to neglect the basis from which the subject may be operating. It goes without saying, moreover, that these other participants in the hearing, following our arguments in Chapter Two, should also pay heed to the parental perspective on specific facets of the hearing outlined in the earlier chapters. Within them there lie many indications of the benefits that could be gained by often relatively minor changes in practice or attitude. Such benefits depend however upon a collective will to grant credibility to the perspective of parent (and ultimately child), a perspective which this thesis has been a preliminary attempt to explore.

Perhaps here however lies the most significant characteristic of the hearing. For despite the multiplicity of parental beliefs, their wide range of ideas, often in conflict with those of other participants, nevertheless the hearing proceeds. In over a decade of operation there has been no indication that the non-conforming views of parents have in any way disturbed the operation of the system. To take only one example, the fact that few parents subscribe to a causal explanation of family pathology is probably known to few and granted importance by even fewer. Likewise, that a parent cannot distinguish between a school attendance panel and a hearing, or does not know the status of those who sit at the hearing, appears, in operational terms, to be irrelevant. Whatever the extent and range of parents' views, in the conduct of the hearing itself they count for little; any clash in perspective between

parent and panel is dispelled, non-problematic to the achievement of the hearing.

It is necessary therefore to overlay on top of the detailed phenomenological analysis a recognition of the basic structural inequality that ensures that, despite parental disquiet or indeed opposition, the hearing is nevertheless achieved. For the parent is in a situation without power, condemned by virtue of her status to a role in which she is powerless to disrupt the proceedings, unable to impose her alternative interpretation. And it is essential that these structural constraints are to be acknowledged if we are to appreciate the extent to which the richness and complexity of the parental perspective can, in the final analysis, be reduced to an irrelevance, can be condemned, as much of the consumer perspective, as a somewhat indulgent backwater.

It remains therefore to provide a brief concluding note on the validity of the conceptual framework in which we couched this study. The concern to explore differing perceptions led us at Chapter Three to give attention to the phenomenological perspective and at Chapter Four to introduce the notion of ideology. It will be recalled that at Chapter Three we decided to proceed with the phenomenological framework on a heuristic basis, alert to expressed criticism but willing to investigate the extent to which prescriptive directives could be achieved. The adoption of such a strategy has been encouraged by Atkinson in Bell + Newby (1977).

'It may be more worthwhile to select one perspective and to work within it. Certainly it may be found wanting, but to be able to discover the limitations in the process of doing the research may prove more rewarding personally and more convincing to others than purely abstract 'discourse'' (p.33).

And in a related vein, McBarnet (1978) has highlighted the danger that excessive theoretical debate and criticism will eclipse entirely any attempts at empirical research,

'scarcely likely to encourage the lowly, lonely, fallible researcher to opt for the minefield of the real world when he could dabble instead in the ideologically safe territory of debating again what type of research might be acceptable to Marx, Gramsci, Lukacs, Taylor, Walton + Young, or Paul Q Hirst' (p.28).

We take comfort from these statements and use them as consolation at the junctures at which we consider our analysis has fallen short of the phenomenological directive. In terms of the discussion at Chapter Three, we would argue that the descriptive imperative, a recognition of the validity of individual interpretation, has more than adequately been satisfied. We have argued strongly the validity of the subjective interpretation of the individual, and have illustrated in depth this interpretation in one particular arena. In terms of methodology there has been compromise, but compromise which, we would again argue, is inevitable in any study in this tradition. To date there is no phenomenological method per se, and, if we be realistic, a specific prescription is unlikely to be developed. Rather it is necessary to translate, as we did at Chapter Three, the various directives into an attainable framework. It is on the constitutive imperative that the present study appears somewhat weaker, with only more rudimentary attempts to demonstrate how individual meaning is

constructed. Again however our study can be reflexive, pointing that though the phenomenological perspective is highly developed at the theoretical level its operationalisation is at a much more elementary stage; the weakness therefore may be one common to much such investigation rather than one unique to this particular analysis.

The initial enthusiasm for a phenomenological alternative has faded somewhat in the more recent reaction against an over-rigid adoption of a dichotomous stance. Thus, despite theoretical arguments for a more radical and inclusive paradigm, the phenomenologist has tended to concentrate on the detailed analysis of the individual response - 'explanation got lost in micro-sociological description and indignant demystification' (McBarnet, 1978:26).

Arguments have been advanced therefore toward some form of synthesis (e.g. Fay, 1975), retaining the significance of the individual perspective but allowing for the addition of more structural arguments. It is this challenge which must be accepted, be it through an expanded phenomenology or through some alternative formulation. We cannot ignore the fact that the panel system proceeds regardless of a discordant parental perspective: children's hearings are accomplished irrespective of the particular analysis afforded by the parent.

APPENDIX ONE : OBSERVATION SCHEDULE 1GIVING INFORMATION

ADMINISTRATIVE

LEGAL

FUNCTION OF HEARING (specify)

DISPOSAL (incl ALTERNATIVES)

CONTENTS SCHOOL/SWk REPORTS

OTHER (specify)

ESTABLISHING FACTS

OFFENCE details of

reasons why

PREVIOUS/SUBSEQUENT TROUBLE

FAMILY BACKGROUND

CHILD'S INTERESTS

SCHOOL attendance

other (specify)

PROBLEMS WITH CHILD/PARENTS

PUNISHMENT METHODS

OTHER (specify)

SEEKING AND EXPRESSING OPINION

GENERAL

OFFENCE

PUNISHMENT

SCHOOL

ENVIRONMENT (incl FRIENDS)

CHILD'S GENERAL CONDUCT

PARENTAL INVOLVEMENT

REASONS (i.e. explanation)

DISPOSAL

FACTS OF REFERRAL

FUTURE

OTHER (specify)

LECTURING

THREATENING

ACCUSING

GIVING REASSURANCE

ADVISING

SEEKING GUIDANCE

APPENDIX TWO : OBSERVATION SCHEDULE 2MOTHER/FATHER

general level of participation : consid. moderate little none

initiates discussion :

facilitates and contributes towards decision :

encourages child to participate :

reinforces panel's interaction with child :

challenges :

seeks guidance/help :

agrees, passive acceptance :

general classification of attitude noting changes,

e.g. relaxed tense hostile co-operative concerned

complacent eager reluctant to participate

apparent understanding :

summary :

CHILD

general level of participation : consid. moderate little none

note anything beyond routine responses :

summary :

SOCIAL WORKER

in general : participation of own volition or routine response to enquiry

encourages parents to participate :

encourages child to participate :

shows solidarity with the family :

attempts persuade panel towards decision :

gives encouragement, enhances self image of M/F/C :

summary :

REPORTER

in general : directive or neutral (distinguish acceptance of grounds and other)

offers explanation :

offers information :

moves panel towards decision :

APPENDIX THREE : INTERVIEW CHECKLIST

INTRODUCTION - ESTABLISH NUMBER OF TIMES BEEN

EXPECTATIONS based WHAT KNOWLEDGE WHERE FROM SOCIAL WORKER ROLE -
did he tell function, how achieve how felt beforehand

WHAT CONSIDER MAIN FUNCTION, i.e. WHAT HEARING FOR HOW IS IT TO DO THIS
WHY CHILD BROUGHT BEFORE PANEL - WHAT HOPED TO ACHIEVE
WHY YOU ASKED ALONG

PARTICIPATION HOW MUCH PANEL SEEM TO WANT TO DISCUSS ISSUES
TO WHAT EXTENT SAY WHAT WANT HOW MUCH IMPORTANCE TO WHAT YOU SAY
WHAT SORT OF THINGS DISCUSS WITH YOU

DECISION MAKING - WHO MADE DECISION HOW WHY WHAT DO YOU THINK OF IT
(will it benefit, how etc) do you feel you helped them to make up
their minds

DETAILS OF DISPOSAL WHAT GOING TO DO SHOULD THERE BE ALTERNATIVES

PANEL - KNOWLEDGE OF IMPRESSION OF MEMBERS QUESTIONS LAY PEOPLE
STIGMA

REPORTS

LEGAL/ADMINISTRATIVE

UNDERSTANDING OF WHAT HAPPENING

ENOUGH CONSIDERATION TO FINDINGS OF GUILT

LAWYER - rights

COMPARISON WITH IDEA OF COURT - what diffs think are favour return
CHILDREN CAN STILL BE PROSECUTED IN SCOTLAND

PHILOSOPHY - 'TREATMENT' v 'PUNISHMENT' (EXPLANATION)

TREATMENT OFFENDERS WITH OTHERS WHO 'IN NEED' (children to List D for other
reasons than offences - ascertain prior knowledge)

DIFFERENT DISPOSALS SAME OFFENCE

MORE GENERAL

PUNISHMENT

CAUSES OF DELINQUENCY

OWN PRESCRIPTIONS

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